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Department of Agriculture

Agricultural Marketing Service

Handling of Milk in Certain Marketing Areas

Chicago, Ill., Etc.; Final Orders

Title 7—AGRICULTURE

Chapter X—Agricultural Marketing Service (Marketing Agreements and Orders; Milk), Department of Agriculture

HANDLING OF MILK IN CERTAIN MARKETING AREAS; CHICAGO, ILL. ETC.

Order Amending Orders

7 CFR Part and Marketing Area

1030, Chicago, Ill.
1031, South Bend-LaPorte-Elkhart, Ind.
1032, Suburban St. Louis.
1038, Rock River Valley.
1039, Milwaukee, Wis.
1045, Northeastern Wisconsin.
1051, Madison, Wis.
1061, St. Joseph, Mo.
1062, St. Louis, Mo.
1063, Quad Cities-Dubuque.
1064, Greater Kansas City.
1067, Ozarks.
1068, Minneapolis-St. Paul, Minn.
1069, Duluth-Superior.
1070, Cedar Rapids-Iowa City.
1078, North Central Iowa.
1079, Des Moines, Iowa.
1094, New Orleans, La.
1096, Northern Louisiana.
1097, Memphis, Tenn.
1099, Paducah, Ky.
1102, Fort Smith, Ark.
1108, Central Arkansas.

Section 0 Findings and determinations.

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of each of the aforesaid orders and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein. The following findings are hereby made with respect to each of the aforesaid orders.

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the above designated marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said order as hereby amended, regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

(b) *Additional findings.* (1) It is necessary in the public interest to make this order amending the order effective not later than August 1, 1964. Any delay beyond that date would tend to disrupt the orderly marketing of milk in the marketing area.

(2) The provisions of the said order are known to handlers. The recommended decision of the Assistant Secretary of Agriculture was issued January 23, 1964, and the decision of the Assistant Secretary of Agriculture containing all amendment provisions of this order, was issued June 19, 1964. The changes effected by this order will not require extensive preparation or substantial alteration in method of operation for handlers. In view of the foregoing, it is hereby found and determined that good cause exists for making this order amending the order effective August 1, 1964 and that it would be contrary to the public interest to delay the effective date of this order for 30 days after its publication in the FEDERAL REGISTER. (Sec. 4(c), Administrative Procedure Act, 5 U.S.C. 1001–1011)

(c) *Determinations.* It is hereby determined that:

(1) The refusal or failure of handlers (excluding cooperative associations specified in section 8c(9) of the Act) of more than 50 percent of the milk, which is marketed within the marketing area, to sign a proposed marketing agreement, tends to prevent the effectuation of the declared policy of the Act;

(2) The issuance of this order, amending the order, is the only practical means pursuant to the declared policy of the Act of advancing the interests of producers as defined in the order as herein amended; and

[The following determination is made with respect to each of the orders amending the orders regulating the handling of milk in the Chicago, Illinois; South Bend-LaPorte-Elkhart, Indiana; Suburban St. Louis; Rock River Valley; Madison, Wisconsin; St. Joseph, Missouri; St. Louis, Missouri; Quad Cities-Dubuque; Greater Kansas City; Ozarks; Minneapolis-St. Paul, Minnesota; Duluth Superior; Des Moines, Iowa; Northern Louisiana; Paducah, Kentucky and Central Arkansas marketing areas.]

(3) The issuance of the order amending the order is favored by at least two-thirds of the producers who during the determined representative period were engaged in the production of milk for sale in the marketing area.

[The following determination is made with respect to the order amending the orders regulating the handling of milk in the Milwaukee, Wisconsin; Memphis, Tennessee and Fort Smith, Arkansas marketing areas.]

(3) The issuance of the order amending the order is favored by at least three-fourths of the producers who during the determined representative period were engaged in the production of milk for sale in the marketing area.

[The following determination is made with respect to the order amending the orders regulating the handling of milk in the Northeastern Wisconsin; Cedar Rapids-Iowa City and New Orleans, Louisiana marketing areas.]

(3) The issuance of the order amending the order is favored by at least two-thirds of the producers who participated in a referendum and who during the determined representative period were engaged in the production of milk for sale in the marketing area.

[The following determination is made with respect to the order amending the order regulating the handling of milk in the North Central Iowa marketing area.]

(3) The issuance of the order amending the order is favored by at least three-fourths of the producers who participated in a referendum and who during the determined representative period were engaged in the production of milk for sale in the marketing area.

Order relative to handling. It is therefore ordered, That on and after the effective date hereof, the handling of milk in the respective designated marketing areas shall be in conformity to and in compliance with the terms and conditions of the aforesaid orders, as amended and as hereby amended, as follows:

PART 1030—MILK IN CHICAGO, ILL., MARKETING AREA

1. In § 1030.23, additional paragraphs (i) and (j) are added to read as follows:

§ 1030.23 Duties.

* * * * *

(i) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products from an other order plant, the classification to which such receipts are allocated pursuant to § 1030.45 pursuant to such report, and thereafter any change in such allocation required to correct errors disclosed in verification of such report; and

(j) Furnish to each handler operating a pool plant who has shipped fluid milk products to an other order plant, the classification to which such fluid milk products were allocated by the market administrator of the other order on the basis of the report of the receiving handler; and, as necessary, any changes in such classification arising in the verification of such report.

2. Section 1030.40(a) is revised to read as follows:

§ 1030.40 Basis of classification.

* * * * *

(a) Any milk moved as milk, skim milk or cream in fluid form from a regulated plant to a plant at which the handling of milk is subject to pricing and payment under any marketing agreement or order issued pursuant to the Act for any other fluid milk marketing area shall be classified in the class to which allocated on the basis of receipts and utilization reported under the other order as follows, if transferred to an other order plant in excess of receipts from such plant in the same category as described in subparagraph (1), (2) or (3) of this paragraph:

(1) If transferred in packaged form, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated as a fluid milk product under the other order (including allocation under the conditions set forth in subparagraph (3) of this paragraph);

(3) If the operators of both the transferor and transferee plants so request in the reports of receipts and utilization filed with their respective market administrators, transfers in bulk form shall be classified as Class III to the extent of the Class III utilization (or comparable utilization under such other order) available for such assignment pursuant to the allocation provisions of the transferee order;

(4) If information concerning the classification to which allocated under the other order is not available to the market administrator for purposes of establishing classification pursuant to this paragraph, classification shall be as Class I (Class II if in the form of fluid cream) subject to adjustment when such information is available;

(5) For purposes of this paragraph, milk allocated to a class consisting primarily of fluid milk products shall be classified as Class I, fluid cream as Class II and milk allocated to other classes shall be classified as Class III;

(6) If the form in which any fluid milk product is transferred to an other order plant is not defined as a fluid milk product under such other order, classification shall be in accordance with the provisions of § 1030.41; and

(7) If this paragraph is applicable, then paragraphs (b), (c), (d) and (e) of this section do not apply.

§ 1030.43 [Amendment]

3. In the proviso of § 1030.43(b), delete the reference to "(a)".

4. Section 1030.45(d) is revised to read as follows:

§ 1030.45 Allocation of classified milk.

* * * * *

(d) Subtract from the pounds in each class in the order specified below:

(1) From Class III milk, the lesser of the remaining pounds or two percent of receipts of packaged milk and milk products from plants subject to the pricing and pooling provisions of another order issued pursuant to the Act. Any remaining pounds of such receipts shall be subtracted from Class I (Class II if so defined by this order);

(2) From Class III milk, but not in excess of the remaining pounds, receipts in bulk of fluid milk products from plants subject to the pricing and pooling provisions of another order issued pursuant to the Act, in excess of similar transfers to such plant, if Class III utilization was requested by the operators of both plants; and

(3) From the remaining pounds in each class, pro rata to such quantities, receipts in bulk of milk and milk products from plants subject to the pricing and pooling provisions of another order issued pursuant to the Act, in excess in each case of similar transfers to the same plant, that were not subtracted pursuant to subparagraph (2) of this paragraph;

PART 1031—MILK IN SOUTH BEND-LAPORTE-ELKHART, IND., MARKETING AREA

1. Section 1031.11 is revised to read as follows:

§ 1031.11 Nonpool plant.

"Nonpool plant" means any milk receiving, manufacturing or processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant and from which fluid milk products labeled Grade A in consumer-type packages or dispenser units are distributed on routes in the marketing area during the month.

(d) "Unregulated supply plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant and from which a Grade A fluid milk product is shipped during the month to a pool plant.

2. Section 1031.12 is revised to read as follows:

§ 1031.12 Producer.

"Producer" means any person, other than a producer-handler as defined in any order (including this part) issued pursuant to the Act, who produces milk eligible for sale in fluid form as Grade A milk within the marketing area which is either (a) received from the farm at a pool plant(s), or (b) caused to be temporarily diverted by the handler for his account from a pool plant to a nonpool plant: *Provided,* That such diverted milk shall be deemed to be received by such handler at the location of the pool plant from which it was diverted.

3. Section 1031.15 is revised to read as follows:

§ 1031.15 Handler.

"Handler" means:

(a) Any person in his capacity as the operator of a pool plant(s);

(b) Any cooperative association with respect to producer milk caused to be delivered for the account of such association from the farms of producers to the pool plant(s) of another handler(s) and milk customarily received as producer milk at a pool plant which is diverted by such association for its account to a nonpool plant;

(c) Any person who operates a partially regulated distributing plant;

(d) Any person in his capacity as the operator of an other order plant from which during the month fluid milk products are either distributed on routes in the marketing area or shipped to a pool plant; or

(e) A producer-handler.

4. A new § 1031.18 is added to read as follows:

§ 1031.18 Fluid milk product.

"Fluid milk product" means milk, skim milk, flavored milk, flavored milk drink, buttermilk, cream (sweet or sour) and any fluid mixture of cream and milk (or skim milk) containing not less than 6 percent butterfat (but not including ice cream or other frozen dessert mixes disposed of to a commercial processor, or any mixture disposed of in containers or dispensers under pressure for the purpose of dispensing a whipped or aerated product) fluid or frozen concentrated milk, flavored milk, flavored milk drink not sterilized and eggnog.

5. In § 1031.22, additional paragraphs (k), (l) and (m) are added and read as follows:

§ 1031.22 Duties.

* * * * *

(k) Whenever required for purpose of allocating receipts from other order plants pursuant to § 1031.46(a)(7) and the corresponding step of § 1031.46(b), the market administrator shall estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose;

(l) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products from an other order plant, the classification to which such receipts are allocated pursuant to § 1031.46 pursuant to such report, and thereafter any change in such allocation required to correct errors disclosed in verification of such report; and

(m) Furnish to each handler operating a pool plant who has shipped fluid milk products to an other order plant, the classification to which the skim milk and butterfat in such fluid milk products were allocated by the market administrator of the other order on the basis of the report of the receiving handler; and, as necessary, any changes in such classification arising in the verification of such report.

6. In § 1031.30, paragraph (b) is revised to read as follows:

§ 1031.30 Monthly reports of receipts and utilization.

* * * * *

(b) Each handler specified in § 1031.15 (c) who operates a partially regulated distributing plant shall report as required in paragraph (a) of this section, except that receipts of Grade A milk from dairy farmers shall be reported in lieu of those in producer milk. Such report shall include a separate statement showing the respective amounts of skim milk and butterfat disposed of on routes in the marketing area as Class I milk.

7. Section 1031.41 is revised to read as follows:

§ 1031.41 Classes of utilization.

* * * * *

(a) Class I milk shall be all skim milk (including reconstituted skim milk) and butterfat:

(1) Disposed of (except as provided in paragraph (c) (1), (4) and (5) of this section) in the form of milk, skim milk, flavored milk, flavored milk drink and buttermilk;

(2) Disposed of as cream (sweet or sour) and any fluid mixture of cream and milk (or skim milk) containing not less than 6 percent butterfat (but not including ice cream or other frozen dessert mixes disposed of to a commercial processor, or any mixture disposed of in containers or dispensers under pressure for the purpose of dispensing a whipped or aerated product);

(3) Disposed of in fluid or frozen form as concentrated milk, flavored milk, flavored milk drink not sterilized and not otherwise specified under paragraph (c) of this section, and as eggnog; and

(4) Not specifically accounted for as any item named in this paragraph or as Class II milk or as Class III milk.

(b) Class II milk shall be all skim milk and butterfat used to produce cottage cheese.

(c) Class III milk shall be all skim milk and butterfat:

(1) Disposed of in bulk in the form of milk, skim milk, buttermilk and cream to any manufacturer of candy, soup or bakery products and used in such products;

(2) In condensed milk or skim milk (sweetened or unsweetened) disposed of to commercial food processors;

(3) Disposed of (or used to produce, in the case of ice cream and frozen desserts and mixes (liquid or powdered) for such products, and aerated cream products) as sweetened condensed milk in hermetically sealed cans, evaporated milk, ice cream, ice cream mix, other frozen desserts and mixes, storage cream, butter, cheese and nonfat dry milk;

(4) Dumped or disposed of for livestock feed as skim milk (including that in whole milk dumped), flavored milk, flavored milk drink and buttermilk;

(5) Skim milk represented by the nonfat milk solids added to a fluid milk product which is in excess of the weight of an equivalent volume of the fluid milk product prior to such addition;

(6) Disposed of as a milk product other than any of those specified in paragraph (a) (1), (2) and (3), in paragraph (b), and in subparagraphs (1) through (5) of this paragraph;

(7) Contained in monthly inventory variations;

(8) In shrinkage but not in excess of:

(i) 2.0 percent of producer milk;

(ii) Plus 2.0 percent of fluid milk products in bulk from other order plants, exclusive of the quantity for which Class II or Class III utilization was requested by the operators of both plants;

(iii) Plus 2.0 percent of fluid milk products in bulk from unregulated supply plants, exclusive of the quantity for which Class II or Class III utilization was requested by the handler; and

(iv) Less 2.0 percent of fluid milk products transferred in bulk to other order plants; and

(9) In shrinkage assigned pursuant to § 1031.42(b)(2).

8. Section 1031.42 is revised to read as follows:

§ 1031.42 Shrinkage.

The market administrator shall allocate shrinkage over a handler's receipts as follows:

(a) Compute the total shrinkage of the skim milk and butterfat, respectively, for each handler; and

(b) Prorate the resulting amounts between the receipts of skim milk and butterfat contained in:

(1) The net quantity of producer milk and other fluid milk products specified in § 1031.41(c)(8); and

(2) Other source milk exclusive of that specified in § 1031.41(c)(8).

9. Section 1031.44 is revised to read as follows:

§ 1031.44 Transfers.

Skim milk or butterfat in the form of a fluid milk product shall be classified:

(a) At the utilization indicated by the operators of both plants, otherwise as Class I milk, if transferred from a pool plant to the pool plant of another handler, subject in either event to the following conditions:

(1) The skim milk or butterfat so assigned to each class shall be limited to the amount thereof remaining in such class in the transferee plant after computations pursuant to § 1031.46(a)(7) and the corresponding step of § 1031.46(b);

(2) If the transferor plant received during the month other source milk to be allocated pursuant to § 1031.46(a)(3), the skim milk and butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor handler received during the month other source milk to be allocated pursuant to § 1031.46(a)(6) or (7) and the corresponding steps of § 1031.46(b), the skim milk and butterfat so transferred up to the total of such receipts shall not be classified as Class I milk to a greater extent than would be applicable to a like quantity of such other source milk received at the transferee plant;

(b) As Class I milk, if transferred from a pool plant to a producer-handler;

(c) As Class I milk, if transferred or diverted in bulk to a nonpool plant that is neither an other order plant nor a producer-handler plant, unless the requirements of subparagraphs (1) and (2) of this paragraph are met, in which case the skim milk and butterfat so transferred or diverted shall be classified in accordance with the assignment resulting from subparagraph (3) of this paragraph:

(1) The transferring or diverting handler claims classification pursuant to the assignment set forth in subparagraph (3) of this paragraph in his report submitted to the market administrator pursuant to § 1031.30 for the month within which such transaction occurred;

(2) The operator of such nonpool plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for the purpose of verification; and

(3) The skim milk and butterfat so transferred shall be classified on the basis of the following assignment of utilization at such nonpool plant in excess of receipts of packaged fluid milk products from all pool plants and other order plants:

(i) Any Class I utilization disposed of on routes in the marketing area shall be first assigned to the skim milk and butterfat in the fluid milk products so transferred or diverted from pool plants, next pro rata to receipts from other order plants and thereafter to receipts from dairy farmers who the market administrator determines constitutes regular sources of supply of Grade A milk for such nonpool plant;

(ii) Any Class I utilization disposed of on routes in the marketing area of another order issued pursuant to the Act shall be first assigned to receipts from plants fully regulated by such order, next pro rata to receipts from pool plants and other order plants not regulated by such order, and thereafter to receipts from dairy farmers who the market administrator determines constitute regular sources of supply for such nonpool plant;

(iii) Class I utilization in excess of that assigned pursuant to subdivisions (i) and (ii) of this subparagraph shall be assigned first to remaining receipts from dairy farmers who the market administrator determines constitute the regular source of supply for such nonpool plant and Class I utilization in excess of such receipts shall be assigned pro rata to unassigned receipts at such nonpool plant from all pool and other order plants; and

(iv) To the extent that Class I utilization is not so assigned to it, the skim milk and butterfat so transferred shall be classified as Class II milk and Class III milk, in series beginning with Class III milk;

(d) As producer milk in the transferee plant, if transferred as bulk milk to the pool plant of another handler by a cooperative association from its pool plant or in its capacity as a handler pursuant to § 1031.15(b). Such milk shall be excluded from producer milk to be classified as that of the cooperative association; and

(e) As follows, if transferred to an other order plant in excess of receipts from such plant in the same category as described in subparagraph (1), (2) or (3) of this paragraph:

(1) If transferred in packaged form, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated as a fluid milk product under the other order (including allocation under the conditions set forth in subparagraph (3) of this paragraph);

(3) If the operators of both the transferor and transferee plants so request in the reports of receipts and utilization filed with their respective market administrators, transfers in bulk form shall be classified as Class II or Class III to the extent of the Class II or Class III utilization (or comparable utilization under such other order) available for such assignment pursuant to the allocation provisions of the transferee order;

(4) If information concerning the classification to which allocated under the other order is not available to the market administrator for purposes of establishing classification pursuant to this paragraph, classification shall be as Class I, subject to adjustment when such information is available;

(5) For purposes of this paragraph, if the transferee order provides for more than two classes of utilization, milk allocated to a class consisting primarily of fluid milk products shall be classified as Class I, and milk allocated to other classes shall be classified as Class II or Class III; and

(6) If the form in which any fluid milk product is transferred to an other order plant is not defined as a fluid milk product under such other order, classification shall be in accordance with the provisions of § 1031.41.

10. Section 1031.46 is revised to read as follows:

§ 1031.46 Allocation of skim milk and butterfat classified.

After making the computations pursuant to § 1031.45, the market administrator shall determine the classification of milk for each handler as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class III, the pounds of skim milk classified as Class III pursuant to § 1031.41(c)(8);

(2) Subtract from the remaining pounds of skim milk in each class the pounds of skim milk in fluid milk products received in packaged form from other order plants as follows:

(i) From Class III milk or Class II milk, in sequence beginning with Class III, the lesser of the pounds remaining or two percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(3) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in each of the following:

(i) Other source milk in a form other than that of a fluid milk product;

(ii) Receipts of fluid milk products for which Grade A certification is not established, or which are from unidentified sources; and

(iii) Receipts of fluid milk products from a producer-handler, as defined under this or any other Federal order;

(4) Subtract, in the order specified below, from the pounds of skim milk remaining in Class II or Class III but not in excess of such quantity:

(i) Receipts of fluid milk products from an unregulated supply plant:

(*a*) For which the handler requests Class II or Class III utilization; or

(*b*) Which are in excess of the pounds of skim milk determined by subtracting from 125 percent of the pounds of skim

milk remaining in Class I milk the sum of the pounds of skim milk in producer milk, receipts from pool plants of other handlers, and receipts in bulk from other order plants; and

(ii) Receipts of fluid milk products in bulk from an other order plant in excess of similar transfers to such plant, if Class II or Class III utilization was requested by the operator of such plant and the handler;

(5) Add to the remaining pounds of skim milk in Class III milk the pounds subtracted pursuant to subparagraph (1) of this paragraph;

(6) Subtract from the pounds of skim milk remaining in each class, pro rata to such quantities, the pounds of skim milk in receipts of fluid milk products from unregulated supply plants which were not subtracted pursuant to subparagraph (4)(i) of this paragraph;

(7) Subtract from the pounds of skim milk remaining in each class, in the following order, the pounds of skim milk in receipts of fluid milk products in bulk from an other order plant(s), in excess in each case of similar transfers to the same plant, which were not subtracted pursuant to subparagraph (4)(ii) of this paragraph:

(i) In series beginning with Class III, the pounds determined by multiplying the pounds of such receipts by the larger of the percentage of estimated Class II and Class III utilization of skim milk announced for the month by the market administrator pursuant to § 1031.22(k) or the percentage that Class II and Class III utilization remaining is of the total remaining utilization of skim milk of the handler; and

(ii) From Class I, the remaining pounds of such receipts;

(8) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk received in fluid milk products from other pool plants according to the classification assigned pursuant to § 1031.44(a);

(9) If the pounds of skim milk remaining in each class exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class III. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section.

11. Section 1031.56 is revised to read as follows:

§ 1031.56 Location differentials to handlers.

(a) The Class I price for producer milk and other source milk (for which a location adjustment is applicable) received at a plant or reload point located at least 55 miles but not more than 60 miles by shortest highway distance as measured by the market administrator, from the St. Joseph County Courthouse, South Bend, Indiana, shall be reduced by 10 cents, plus 1.6 cents for each 10 miles or fraction thereof that such plant or reload point is located more than 60 miles from the St. Joseph County Courthouse, South Bend, Indiana;

(b) For the purpose of calculating location differentials, receipts of fluid milk products from pool plants shall be assigned any remainder of Class I milk at the transferee plant that is in excess of the sum of receipts at such plant from producers and handlers pursuant to § 1031.15(b) and that assigned as Class I to receipts from other order plants and unregulated supply plants. Such assignment shall be made in sequence according to the location differential applicable at each plant beginning with the plant nearest the St. Joseph County Courthouse in South Bend, Indiana.

12. Section 1031.70 is revised to read as follows:

§ 1031.70 Computation of the net pool obligation of each pool handler.

The net pool obligation of each pool handler during each month shall be a sum of money computed by the market administrator as follows:

(a) Multiply the quantity of producer milk (including any such milk caused to be delivered to such handler from the farms of producers for the account of a cooperative association) in each class, as computed pursuant to § 1031.46, by the applicable class prices;

(b) Add the amount obtained from multiplying the overage deducted from each class pursuant to § 1031.46(a)(9) and the corresponding step of § 1031.46(b) by the applicable class prices;

(c) Add an amount equal to the difference between the Class I and Class III price values at the pool plant of the skim milk and butterfat subtracted from Class I pursuant to § 1031.46(a)(3) and the corresponding step of § 1031.46(b); and

(d) Add the value at the Class I price, adjusted for location of the nearest nonpool plant(s) from which an equivalent volume was received, of the skim milk and butterfat subtracted from Class I pursuant to § 1031.46(a)(6) and the corresponding step of § 1031.46(b).

13. Section 1031.71 is revised to read as follows:

§ 1031.71 Computation of uniform price.

For each month the market administrator shall compute a uniform price as follows:

(a) Combine into one total the values computed pursuant to § 1031.70 for all handlers who filed the reports prescribed by § 1031.30 for the month and who made the payments pursuant to § 1031.83 for the preceding month;

(b) Add an amount equal to the total value of the location differentials computed pursuant to § 1031.81(b);

(c) Subtract, if the average butterfat content of the milk specified in paragraph (a) of this section is more than 3.5 percent, or add, if such butterfat content is less than 3.5 percent, an amount computed by multiplying the amount by which the average butterfat content of such milk varies from 3.5 percent by the butterfat differential computed pursuant to § 1031.81(a) and multiplying the result by the total hundredweight of such milk;

(d) Add an amount equal to not less than one-half of the unobligated balance in the producer-settlement fund;

(e) Divide the resulting amount by the sum of the following for all handlers included in these computations;

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1031.70(d); and

(f) Subtract not less than four cents nor more than five cents per hundredweight.

14. A new § 1031.72 is added to read as follows:

§ 1031.72 Obligations of handler operating a partially regulated distributing plant.

Each handler who operates a partially regulated distributing plant shall pay to the market administrator for the producer-settlement fund on or before the 25th day after the end of the month either of the amounts (at the handler's election) calculated pursuant to paragraph (a) or (b) of this section. If the handler fails to report pursuant to § 1031.30(b) the information necessary to compute the amount specified in paragraph (a) of this section, he shall pay the amount computed pursuant to paragraph (b) of this section:

(a) An amount computed as follows:

(1)(i) The obligation that would have been computed pursuant to § 1031.70 at such plant shall be determined as though such plant were a pool plant. For purposes of such computation, receipts at such nonpool plant from a pool plant or an other order plant shall be assigned to the utilization at which classified at the pool plant or other order plant and transfers from such nonpool plant to a pool plant or an other order plant shall be classified as Class II or III milk if allocated to such class at the pool plant or other order plant and be valued at the uniform price of the respective order if so allocated to Class I milk. There shall be included in the obligation so computed a charge in the amount specified in § 1031.70(d) and a credit in the amount specified in § 1031.83(b)(2) with respect to receipts from an unregulated supply plant, unless an obligation with respect to such plant is computed as specified below in this subparagraph.

(ii) If the operator of the partially regulated distributing plant so requests, and provides with his report pursuant to § 1031.30(b) a similar report with respect to the operations of any other nonpool plant which serves as a supply plant for such partially regulated distributing plant by shipments to such plant during the month equivalent to the requirements of § 1031.10(b), with agreement of the operator of such plant that the market administrator may examine the books and records of such plant for purposes of verification of such reports, there will be added the amount of the obligation computed at such nonpool supply plant in the same manner and subject to the same conditions as for

the partially regulated distributing plant.

(2) From this obligation there will be deducted the sum of (i) the gross payments made by such handler for Grade A milk received during the month from dairy farmers at such plant and like payments made by the operator of a supply plant(s) included in the computations pursuant to subparagraph (1) of this paragraph, and (ii) any payments to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant.

(b) An amount computed as follows:

(1) Determine the respective amounts of skim milk and butterfat disposed of as Class I milk on routes in the marketing area.

(2) Deduct (except that deducted under a similar provision of another order issued pursuant to the Act) the respective amounts of skim milk and butterfat received as Class I milk at the partially regulated distributing plant from pool plants and other order plants;

(3) Combine the amounts of skim milk and butterfat remaining into one total and determine the weighted average butterfat content; and

(4) From the value of such milk at the Class I price applicable at the location of the nonpool plant, subtract its value at the uniform price pursuant to § 1031.71 at the same location or at the Class III price, whichever is higher.

15. Section 1031.81(b) is revised to read as follows:

§ 1031.81 Producer butterfat and location differentials to producers and on nonpool milk.

* * * * *

(b) The uniform price for milk received at a plant shall be reduced according to the location of the plant at the rates set forth in § 1031.56.

§ 1031.82 [Amendment]

16. In § 1031.82 the reference to "§ 1031.83" is deleted and "§§ 1031.72 and 1031.83" is substituted therefor.

17. Section 1031.83 is revised to read as follows:

§ 1031.83 Payments to the producer-settlement fund.

On or before the 16th day after the end of the month, each handler shall pay to the market administrator the amount, if any, by which the total amounts specified in paragraph (a) of this section exceed the amounts specified in paragraph (b) of this section: *Provided,* That with respect to milk for which a cooperative association receives payment from a handler pursuant to § 1031.80(b), each cooperative association shall pay to the market administrator on or before the 16th day after the end of the month, the amount by which the utilization value of such milk is greater than the value computed at the uniform price:

(a) The net pool obligation computed pursuant to § 1031.70 for such handler; and

(b) The sum of:

(1) The value of such handler's producer milk at the applicable uniform price; and

(2) The value at the uniform price(s) applicable at the location of the plant(s), from which received (not to be less than the value at the Class III price) with respect to other source milk for which a value is computed pursuant to § 1031.70(d).

18. Section 1031.84 is revised to read as follows:

§ 1031.84 Payments out of the producer-settlement fund.

On or before the 17th day after the end of each month, the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1031.83(b) exceeds the amount computed pursuant to § 1031.83 (a). The market administrator shall offset any payment due any handler against payments due from such handler: *Provided,* That with respect to milk for which a cooperative association receives payment from a handler pursuant to § 1031.80(b), the market administrator shall pay to such cooperative association on or before the 17th day after the end of the month, the amount by which the utilization value of such milk is less than the value computed at the uniform price: *And provided further,* That if the balance in the producer-settlement fund is insufficient to make all payments pursuant to this section, the market administrator shall reduce uniformly per hundredweight such payments and shall complete such payments as soon as the necessary funds are available.

19. Section 1031.85 is revised to read as follows:

§ 1031.85 Expense of administration.

As his pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 16th day after the end of the month 4 cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect to (a) producer milk (including such handler's own production), (b) other source milk allocated to Class I pursuant to § 1031.46(a)(3) and (6) and the corresponding steps of § 1031.46(b), and (c) Class I milk disposed of in the marketing area from a partially regulated distributing plant that exceeds the hundredweight of Class I milk received during the month at such plant from pool plants and other order plants.

PART 1032—MILK IN SUBURBAN ST. LOUIS MARKETING AREA

1. Section 1032.7 is revised to read as follows:

§ 1032.7 Producer.

"Producer" means any person, other than a producer-handler as defined in any order (including this part) issued pursuant to the Act, who, in compliance with the Grade A inspection requirements of a duly constituted health authority, produces milk for distribution as fluid milk products within the marketing area or produces milk acceptable for fluid consumption at Federal, State or municipal institutions, and whose milk is (a) received at a pool plant, or (b) diverted to a nonpool plant which is not a pool plant under the terms of another order issued pursuant to the Act for the account of a handler any number of days during the months of March through July or to the extent of not more than 10 days' production during any month from August through February. Milk so diverted shall be deemed to have been received by the diverting handler at a pool plant at the location of the plant from which diverted.

2. In § 1032.9, paragraph (b) is redesignated (c); paragraph (c) redesignated (d); paragraph (a) is revised and a new paragraph (e) is added to read as follows:

§ 1032.9 Handler.

* * * * *

(a) Any person in his capacity as the operator of a pool plant;

(b) Any person in his capacity as the operator of a partially regulated distributing plant;

* * * * *

(e) A producer-handler, or any person who operates an other order plant described in § 1032.61.

§ 1032.13 [Amendment]

3. In § 1032.13 (a) and (b), the references to "§ 1032.9(c)" are changed to read "§ 1032.9(d)".

4. Section 1032.14 is revised to read as follows:

§ 1032.14 Nonpool plant.

"Nonpool plant" means any milk receiving, manufacturing or processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act;

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act;

(c) "Partially regulated distributing plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant, from which fluid milk products labeled Grade A in consumer-type packages or dispenser units are distributed on routes in the marketing area during the month;

(d) "Unregulated supply plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant, from which Grade A fluid milk products are shipped to a pool plant.

§ 1032.15 [Amendment]

5. In § 1032.15, the reference to "§ 1032.9 (b) and (c)" is changed to read "§ 1032.9 (c) and (d)".

5a. A new § 1032.19 is added to read as follows:

§ 1032.19 Fluid milk product.

"Fluid milk product" means milk, skim milk, buttermilk, flavored milk, milk drinks (plain or flavored), cream (sweet or sour), concentrated milk, fortified milk or skim milk, reconstituted milk or skim milk and mixtures of milk, skim milk or cream (except frozen dessert mixes, eggnog, aerated cream, and sterilized products in hermetically sealed containers);

6. In § 1032.22, additional paragraphs (k), (l) and (m) are added and read as follows:

§ 1032.22 Duties.

* * * * *

(k) Whenever required for purpose of allocating receipts from other order plants pursuant to § 1032.45(a)(8) and the corresponding step of § 1032.45(b), the market administrator shall estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose;

(l) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products from an other order plant, the classification to which such receipts are allocated pursuant to § 1032.45 pursuant to such report, and thereafter any change in such allocation required to correct errors disclosed in verification of such report; and

(m) Furnish to each handler operating a pool plant who has shipped fluid milk products to an other order plant, the classification to which the skim milk and butterfat in such fluid milk products were allocated by the market administrator of the other order on the basis of the report of the receiving handler; and, as necessary, any changes in such classification arising in the verification of such report.

7. Section 1032.30 is revised to read as follows:

§ 1032.30 Reports of receipts and utilization.

Not later than the 7th day after the end of the month, each handler shall report to the market administrator, in the detail and on forms prescribed by the market administrator, as follows:

(a) Each handler operating a pool plant(s) shall report for each pool plant(s) and a cooperative association which is a handler pursuant to § 1032.9 (c) and (d) shall likewise report the quantities of skim milk and butterfat contained in:

(1) Receipts of milk from producers;

(2) The quantities of skim milk and butterfat contained in milk and milk products received from other pool plants and from a cooperative association which is a handler pursuant to § 1032.9(d);

(3) The quantities of skim milk and butterfat contained in other source milk, including milk which has been classified and priced under other Federal orders;

(4) The inventories of skim milk and butterfat on hand at the beginning and the end of the month;

(5) The utilization of all skim milk and butterfat required to be reported by this section, including a separate statement of disposition of Class I milk outside the marketing area;

(6) The name and address of each producer from whom milk was received with statements showing dates on which such producer started shipping and the date on which milk shipments stopped; and

(7) Such other information with respect to the receipts and utilization of milk and milk products as the market administrator may require; and

(b) Each handler specified in § 1032.9 (b) who operates a partially regulated distributing plant shall report as required in paragraph (a) of this section, except that receipts in Grade A milk shall be reported in lieu of those in producer milk; such report shall include a separate statement showing the respective amounts of skim milk and butterfat disposed of on routes in the marketing area as Class I milk;

8. Section 1032.31 is revised to read as follows:

§ 1032.31 Other reports.

Each producer-handler shall make reports to the market administrator at such time and in such manner as the market administrator shall request.

9. Section 1032.32 is revised to read as follows:

§ 1032.32 Payroll reports.

(a) On or before the 20th day after the end of the month, each handler operating a pool plant shall report to the market administrator in the detail and on forms prescribed by the market administrator his producer payroll for that month, which shall show for each producer:

(1) His name and address;

(2) The total pounds of milk received from such producer;

(3) The plant at which such milk was received;

(4) The days for which milk was received from such producer;

(5) The average butterfat content of such milk; and

(6) The net amount of the handler's payment to the producer, together with the price paid and the amount and nature of any deduction.

(b) Each handler operating a partially regulated distributing plant who does not elect to make payments as required pursuant to § 1032.62(b) shall report to the market administrator on or before the 20th day after the end of the month for each dairy farmer from whom

milk was received, the same information as required pursuant to paragraph (a) of this section.

§ 1032.40 [Amendment]

10. In § 1032.40, the reference to "§ 1032.9(c)" is changed to read "§ 1032.9 (d)".

§ 1032.41 [Amendment]

10a. In § 1032.41(a) subparagraph (1) is revised to read as follows:

(1) Disposed of in the form of fluid milk products except those classified pursuant to paragraph (b) (2), (3), (4), and (5) of this section. Fluid milk products which have been fortified by the addition of nonfat solids shall be Class I in an amount equal only to the weight of an equal volume of an unmodified product of the same nature and butterfat content; and

11. Section 1032.41(b) is revised to read as follows:

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Used to produce any product other than a fluid milk product;

(2) In inventory on hand in the form of products designated as Class I milk in paragraph (a) of this section at the end of the month;

(3) Accounted for and used for livestock feed;

(4) Dumped (skim milk portion only) with the prior approval of the market administrator;

(5) Contained in that portion of "fortified" fluid milk products not classified as Class I pursuant to paragraph (a)(1) of this section;

(6) In shrinkage of skim milk and butterfat, respectively, assigned pursuant to § 1032.46(b)(1), but not to exceed the following:

(i) Two percent of milk received directly from producers; plus

(ii) One and one-half percent of milk received in bulk tank lots from pool plants of other handlers; plus

(iii) One and one-half percent of milk received from a cooperative association which is the handler for such milk pursuant to § 10.32.9(d); plus

(iv) One and one-half percent of receipts of fluid milk products in bulk from an other order plant, exclusive of the quantity for which Class II utilization was requested by the operator of such plant and the handler; plus

(v) One and one-half percent of receipts of fluid milk products in bulk from unregulated supply plants, exclusive of the quantity for which Class II utilization was requested by the handler; less

(vi) One and one-half percent of milk disposed of in bulk tank lots to plants of other handlers (except when the milk is diverted, the applicable percentage shall be two percent) and to nonpool plants; and

(7) In shrinkage of skim milk and butterfat, respectively, assigned pursuant to § 1032.46(b)(2).

12. Section 1032.43 is revised to read as follows:

§ 1032.43 Transfers.

Skim milk and butterfat disposed of by a handler, including a cooperative association in its capacity as a handler pursuant to § 1032.9 (c) and (d) shall be classified:

(a) At the utilization indicated by both handlers, otherwise as Class I milk, if transferred to the pool plant of another handler, subject in either event to the following conditions:

(1) The skim milk or butterfat so assigned to either class shall be limited to the amount thereof remaining in such class in the transferee plant after computations pursuant to § 1032.45(a)(8) and the corresponding step of § 1032.45 (b). If a specified utilization is not claimed by both handlers, skim milk and butterfat transferred to the pool plant of another handler by a cooperative association which is a handler pursuant to § 1032.9(d), shall be classified pro rata to the respective amounts remaining in each class for such month at the pool plant of the receiving handler after the computations pursuant to § 1032.45(a)(8) and the corresponding step of § 1032.45(b);

(2) If the transferor handler received during the month other source milk to be allocated pursuant to § 1032.45(a)(3) and the corresponding step of § 1032.45 (b), the skim milk and butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor handler received during the month other source milk to be allocated pursuant to § 1032.45(a)(7) or (8) and the corresponding step of § 1032.45(b), the skim milk and butterfat so transferred up to the total of such receipts shall not be classified as Class I milk to a greater extent than would be applicable to a like quantity of such other source milk received at the transferee plant.

(b) As Class I milk, if transferred from a pool plant to a producer-handler;

(c) As Class I milk, if transferred or diverted to a nonpool plant that is neither an other order plant nor a producer-handler plant, located more than 150 miles from the main U.S. post office in either Alma, Alton, Benton or Red Bud, Illinois, and more than 50 miles from the transferor plant, by shortest highway distance as determined by the market administrator, except that cream so transferred may be classified as Class II if the handler claims Class II use and establishes that such cream was transferred to a nonpool plant without Grade A certification and that each container was labeled or tagged to indicate that the contents were for manufacturing use and that the shipment was so invoiced and the handler affords the market administrator at least 24 hours prior notice so that he may verify such shipment;

(d) As Class I milk, if transferred or diverted in bulk to a nonpool plant that is neither an other order plant nor a producer-handler plant, located not more than 150 miles from the main U.S. post office in either Alma, Alton, Benton or Red Bud, Illinois, or within 50 miles of the transfer or plant, unless the requirements of subparagraphs (1) and (2) of this paragraph are met, in which case the skim milk and butterfat so transferred or diverted shall be classified in accordance with the assignment resulting from subparagraph (3) of this paragraph;

(1) The transferring or diverting handler claims classification pursuant to the assignment set forth in subparagraph (3) of this paragraph in his report submitted to the market administrator pursuant to § 1032.30 for the month within which such transaction occurred;

(2) The operator of such nonpool plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for the purpose of verification; and

(3) The skim milk and butterfat so transferred shall be classified on the basis of the following assignment of utilization at such nonpool plant in excess of receipts of packaged fluid milk products from all pool plants and other order plants:

(i) Any Class I utilization disposed of on routes in the marketing area shall be first assigned to the skim milk and butterfat in the fluid milk products so transferred or diverted from pool plants, next pro rata to receipts from other order plants and thereafter to receipts from dairy farmers who the market administrator determines constitute regular sources of supply of Grade A milk for such nonpool plant;

(ii) Any Class I utilization disposed of on routes in the marketing area of another order issued pursuant to the Act shall be first assigned to receipts from plants fully regulated by such order, next pro rata to receipts from pool plants and other order plants not regulated by such order, and thereafter to receipts from dairy farmers who the market administrator determines constitute regular sources of supply for such nonpool plant;

(iii) Class I utilization in excess of that assigned pursuant to subdivisions (i) and (ii) of this subparagraph shall be assigned first to remaining receipts from dairy farmers who the market administrator determines constitute the regular source of supply for such nonpool plant and Class I utilization in excess of such receipts shall be assigned pro rata to unassigned receipts at such nonpool plant from all pool and other order plants; and

(iv) To the extent that Class I utilization is not so assigned to it, the skim milk and butterfat so transferred shall be classified as Class II milk; and

(e) As follows, if transferred to an other order plant in excess of receipts from such plant in the same category as described in subparagraph (1), (2) or (3) of this paragraph:

(1) If transferred in packaged form, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated as a fluid milk product under the other order (including allocation under the conditions set forth in subparagraph (3) of this paragraph);

(3) If the operators of both the transferor and transferee plants so re-

quest in the reports of receipts and utilization filed with their respective market administrators, transfers in bulk form shall be classified as Class II to the extent of the Class II utilization (or comparable utilization under such other order) available for such assignment pursuant to the allocation provisions of the transferee order;

(4) If information concerning the classification to which allocated under the other order is not available to the market administrator for purposes of establishing classification pursuant to this paragraph, classification shall be as Class I, subject to adjustment when such information is available;

(5) For purposes of this paragraph, if the transferee order provides for more than two classes of utilization, milk allocated to a class consisting primarily of fluid milk products shall be classified as Class I, and milk allocated to other classes shall be classified as Class II; and

(6) If the form in which any fluid milk product is transferred to an other order plant is not defined as a fluid milk product under such other order, classification shall be in accordance with the provisions of § 1032.41.

§ 1032.44 [Amendment]

13. In § 1032.44 the reference "§ 1032.9 (c)" is changed to "§ 1032.9(d)" and the reference "§ 1032.9(b)" is changed to "§ 1032.9(c)".

14. Section 1032.45 is revised to read as follows:

§ 1032.45 Allocation of skim milk and butterfat classified.

After making the computations pursuant to § 1032.44, the market administrator shall determine the classification of producer milk at each pool plant as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class II the pounds of skim milk classified in Class II pursuant to § 1032.41(b)(6);

(2) Subtract from the remaining pounds of skim milk in each class the pounds of skim milk in fluid milk products received in packaged form from other order plants as follows:

(i) From Class II milk, the lesser of the pounds remaining or two percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(3) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class II, the pounds of skim milk in each of the following:

(i) Other source milk in a form other than that of a fluid milk product;

(ii) Receipts of fluid milk products for which Grade A certification is not established, or which are from unidentified sources; and

(iii) Receipts of fluid milk products from a producer-handler, as defined under this or any other Federal order;

(4) Subtract, in the order specified below, from the pounds of skim milk remaining in Class II:

(i) The pounds of skim milk in receipts of fluid milk products from unregulated supply plants for which the handler requests Class II utilization, but not in excess of the pounds of skim milk remaining in Class II;

(ii) The pounds of skim milk remaining in receipts of fluid milk products from unregulated supply plants which are in excess of the pounds of skim milk determined as follows:

(*a*) Multiply the pounds of skim milk remaining in Class I milk (excluding Class I transfers between pool plants of the handler) at all pool plants of the handler by 1.25;

(*b*) Subtract from the result the sum of the pounds of skim milk at all such plants in producer milk, in receipts from other pool handlers and in receipts in bulk from other order plants; and

(*c*)(*1*) Multiply any resulting plus quantity by the percentage that receipts of skim milk in fluid milk products from unregulated supply plants remaining at this plant is of all such receipts remaining at all pool plants of such handler, after any deductions pursuant to subdivision (i) of this subparagraph.

(*2*) Should such computation result in a quantity to be subtracted from Class II which is in excess of the pounds of skim milk remaining in Class II, the pounds of skim milk in Class II shall be increased to the quantity to be subtracted and the pounds of skim milk in Class I shall be decreased a like amount. In such case the utilization of skim milk at other pool plant(s) of such handler shall be adjusted in the reverse direction by an identical amount in sequence beginning with the nearest other pool plant of such handler at which such adjustment can be made.

(iii) The pounds of skim milk in receipts of fluid milk products in bulk from an other order plant in excess of similar transfers to such plant, if Class II utilization was requested by the operator of such plant and the handler;

(5) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class II, the pounds of skim milk in inventory of fluid milk products on hand at the beginning of the month;

(6) Add to the remaining pounds of skim milk in Class II milk the pounds subtracted pursuant to subparagraph (1) of this paragraph;

(7)(i) Subtract from the pounds of skim milk remaining in each class, pro rata to the total pounds of skim milk remaining in each class in all pool plants of the receiving handler, the pounds of skim milk in receipts of fluid milk products from unregulated supply plants that were not subtracted pursuant to subparagraph (4) (i) or (ii) of this paragraph;

(ii) Should such proration result in the amount to be subtracted from any class exceeding the pounds of skim milk remaining in such class in the pool plant at which such skim milk was received, the pounds of skim milk in such class shall be increased to the amount to be subtracted and the pounds of skim milk in the other class shall be decreased a like amount. In such case the utilization of milk at other pool plant(s) of such handler shall be adjusted in the reverse direction by an identical amount in sequence beginning with the nearest other pool plant of such handler at which such adjustment can be made;

(8) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of fluid milk products in bulk from an other order plant, in excess in each case of similar transfers to the same plant, that were not subtracted pursuant to subparagraph (4)(iii) of this paragraph pursuant to the following procedure:

(i) Subject to the provisions of subdivisions (ii) and (iii) of this subparagraph, such subtraction shall be pro rata to whichever of the following represents the higher proportion of Class II milk:

(*a*) The estimated utilization of skim milk in each class, by all handlers, as announced for the month pursuant to § 1032.22(k); or

(*b*) The pounds of skim milk in each class remaining at all pool plants of the handler;

(ii) Should proration pursuant to subdivision (i) of this subparagraph result in the total pounds of skim milk to be subtracted from Class II at all pool plants of the handler exceeding the pounds of skim milk remaining in Class II at such plants, the pounds of such excess shall be subtracted from the pounds of skim milk remaining in Class I after such proration at the pool plants at which received;

(iii) Except as provided in subdivision (ii) of this subparagraph, should proration pursuant to either subdivision (i) or (ii) of this subparagraph result in the amount to be subtracted from either class exceeding the pounds of skim milk remaining in such class in the pool plant at which such skim milk was received, the pounds of skim milk in such class shall be increased to the amount to be subtracted and the pounds of skim milk in the other class shall be decreased a like amount. In such case the utilization of milk at other pool plant(s) of such handler shall be adjusted in the reverse direction by an identical amount in sequence beginning with the nearest other pool plant of such handler at which such adjustment can be made.

(9) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk received in fluid milk products from pool plants of other handlers and cooperative associations according to the classification assigned pursuant to § 1032.43(a); and

(10) If the pounds of skim milk remaining in both classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class II. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) Combine the amounts of skim milk and butterfat determined pursuant to paragraphs (a) and (b) of this section into one total for each class and determine the weighted average butter-

fat content of producer milk in each class.

15. Section 1032.46 is revised to read as follows:

§ 1032.46 Shrinkage.

The market administrator shall allocate shrinkage over a handler's receipts as follows:

(a) Compute the total shrinkage of skim milk and butterfat, respectively, for each handler; and

(b) If a handler has receipts of other source milk, shrinkage shall be prorated between: (1) Skim milk and butterfat, respectively, in the amounts of receipts used in the computations pursuant to § 1032.41(b)(6); and (2) skim milk and butterfat in other source milk in bulk fluid form, exclusive of that specified in § 1032.41(b)(6).

16. Section 1032.52 is revised to read as follows :

§ 1032.52 Location adjustments to handlers.

(a) For milk received from producers and for other source milk for which a location adjustment credit is applicable which is received at a pool plant 50 miles or more from the main U.S. post office in either Alma, Alton, Benton, or Red Bud, Illinois, whichever is nearest, by the shortest hard-surfaced highway distance, as determined by the market administrator, and which is classified as Class I milk, the price specified in § 1032.51(a) for plants located in the base zone shall be reduced at the rate set forth in the following schedule:

Distance (miles):	*Rate per hundredweight (cents)*
50 but not more than 60	9
For each additional 10 miles or fraction thereof	1.5

(b) For purposes of calculating such adjustment, transfers between pool plants shall be assigned Class I disposition at the transferee plant only to the extent that the Class I disposition at the transferee plant exceeds the sum of receipts at such plant and from producers and cooperative associations pursuant to § 1032.9(d), and the volume assigned as Class I to receipts from other order plants and unregulated supply plants, such assignment to be made first to transferor plants at which no location adjustment credit is applicable and then in sequence beginning with the plant at which the least location adjustment would apply.

§ 1032.55 [Revocation]

16a. Section 1032.55 is revoked.

17. A new § 1032.62 is added to read as follows:

§ 1032.62 Obligations of handler operating a partially regulated distributing plant.

Each handler who operates a partially regulated distributing plant shall pay to the market administrator for the producer-settlement fund on or before the 25th day after the end of the month either of the amounts (at the handler's election) calculated pursuant to paragraph (a) or (b) of this section. If the handler fails to report pursuant to §§ 1032.30(b) and 1032.32(b) the information necessary to compute the amount specified in paragraph (a) of this section, he shall pay the amount computed pursuant to paragraph (b) of this section:

(a) An amount computed as follows:

(1)(i) The obligation that would have been computed pursuant to § 1032.70 at such plant shall be determined as though such plant were a pool plant. For purposes of such computation, receipts at such nonpool plant from a pool plant or an other order plant shall be assigned to the utilization at which classified at the pool plant or other order plant and transfers from such nonpool plant to a pool plant or an other order plant shall be classified as Class II milk if allocated to such class at the pool plant or other order plant and be valued at the weighted average price of the respective order if so allocated to Class I milk. There shall be included in the obligation so computed a charge in the amount specified in § 1032.70(e) and a credit in the amount specified in § 1032.84(b)(2) with respect to receipts from an unregulated supply plant, unless an obligation with respect to such plant is computed as specified below in this subparagraph.

(ii) If the operator of the partially regulated distributing plant so requests, and provides with his reports pursuant to §§ 1032.30(b) and 1032.32(b) similar reports with respect to the operations of any other nonpool plant which serves as a supply plant for such partially regulated distributing plant by shipments to such plant during the month equivalent to the requirements of § 1032.13(b), with agreement of the operator of such plant that the market administrator may examine the books and records of such plant for purposes of verification to such reports, there will be added the amount of the obligation computed at such nonpool supply plant in the same manner and subject to the same conditions as for the partially regulated distributing plant.

(2) From this obligation there will be deducted the sum of (i) the gross payments made by such handler for Grade A milk received during the month from dairy farmers at such plant and like payments made by the operator of a supply plant(s) included in the computations pursuant to subparagraph (1) of this paragraph, and (ii) any payments to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant.

(b) An amount computed as follows:

(1) Determine the respective amounts of skim milk and butterfat disposed of as Class I milk on routes in the marketing area;

(2) Deduct the respective amounts of skim milk and butterfat received as Class I milk at the partially regulated distributing plant from pool plants and other order plants except that deducted under a similar provision of another order issued pursuant to the Act;

(3) Combine the amounts of skim milk and butterfat remaining into one total and determine the weighted average butterfat content; and

(4) From the value of such milk at the Class I price applicable at the location of the nonpool plant, subtract its value at the weighted average price applicable at such location or the Class II price, whichever is higher.

18. Section 1032.70 is revised to read as follows:

§ 1032.70 Computation of the net pool obligation of each pool handler.

The net pool obligation of each pool handler during each month shall be a sum of money computed by the market administrator as follows:

(a) Multiply the quantity of producer milk in each class, as computed pursuant to § 1032.45(c), by the applicable class prices (adjusted pursuant to §§ 1032.52 and 1032.53);

(b) Add the amount obtained from multiplying the pounds of overage deducted from each class pursuant to § 1032.45(a)(10) and the corresponding step of § 1032.45(b) by the applicable class prices;

(c) Add the amount obtained from multiplying the difference between the Class II price for the preceding month and the Class I price for the current month by the hundredweight of skim milk and butterfat substracted from Class I pursuant to § 1032.45(a)(5) and the corresponding step of § 1032.45(b);

(d) Add an amount equal to the difference between the value at the Class I price applicable at the pool plant and the value at the Class II price, with respect to skim milk and butterfat in other source milk subtracted from Class I pursuant to § 1032.45(a)(3) and the corresponding step of § 1032.45(b);

(e) Add an amount equal to the value at the Class I price, adjusted for location of the nearest nonpool plant(s) from which an equivalent volume was received, with respect to skim milk and butterfat subtracted from Class I pursuant to § 1032.45(a)(7) and the corresponding step of § 1032.45(b).

19. Section 1032.71 is revised to read as follows:

§ 1032.71 Computation of uniform prices.

For each month the market administrator shall compute the uniform price per hundredweight of milk of 3.5 percent butterfat content which is received from producers at plants located in the "base zone" as follows:

(a) Combine into one total the values computed pursuant to § 1032.70 for all handlers who filed the reports prescribed by § 1032.30 for the month and who made the payments pursuant to §§ 1032.80 and 1032.84 for the preceding month;

(b) Add an amount equal to the total value of the location differentials computed pursuant to § 1032.82 plus the amount obtained by multiplying by five cents the total hundredweight of producer milk received at plants in the northern zone;

(c) Subtract, if the average butterfat content of the milk specified in paragraph (e) of this section is more than 3.5 percent, or add, if such butter-

fat content is less than 3.5 percent, an amount computed by multiplying the amount by which the average butterfat content of such milk varies from 3.5 percent by the butterfat differential computed pursuant to § 1032.81 and multiplying the result by the total hundredweight of such milk;

(d) Add an amount equal to one-half of the unobligated balance in the producer-settlement fund;

(e) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1032.70(e);

(f) Subtract not less than four cents nor more than five cents per hundredweight. The result shall be the "weighted average price", and, except for the months specified below, shall be the "uniform price" for milk received from producers;

(g) For the months specified in paragraphs (h) and (i) of this section, subtract from the amount resulting from the computations pursuant to paragraphs (a) through (d) of this section an amount computed by multiplying the hundredweight of milk specified in paragraph (e)(2) of this section by the weighted average price;

(h) Subtract during each of the months of April, May, June and July, an amount equal to 10 cents per hundredweight on the total hundredweight of producer milk specified in paragraph (e)(1) of this section;

(i) Add during each of the months of October, November, and December, one-third of the total amount subtracted pursuant to paragraph (h) of this section;

(j) Divide the resulting sum by the total hundredweight of producer milk included in these computations; and

(k) Subtract not less than four cents nor more than five cents per hundredweight. The result shall be the "uniform price" for milk received from producers.

20. Section 1032.82 is revised to read as follows:

§ 1032.82 Location differentials to producers and on nonpool milk.

(a) The uniform price for producer milk received at a pool plant shall be reduced according to the location of the pool plant and at the rates set forth in the schedule in § 1032.52; and

(b) For purposes of computations pursuant to §§ 1032.84 and 1032.85 the weighted average price shall be adjusted at the rates set forth in § 1032.52 applicable at the location of the nonpool plant from which the milk was received.

21. Section 1032.83 is revised to read as follows:

§ 1032.83 Producer-settlement fund.

The market administrator shall establish and maintain a separate fund known as the producer-settlement fund into which he shall deposit all payments made by handlers pursuant to §§ 1032.62 (a) and (b), 1032.84 and 1032.86 and out of which he shall make all payments pursuant to §§ 1032.85 and 1032.86.

22. Section 1032.84 is revised to read as follows:

§ 1032.84 Payments to the producer-settlement fund.

On or before the 15th day after the end of the month each handler, including a cooperative association which is a handler, shall pay to the market administrator the amount, if any, by which the total amount specified in paragraph (a) of this section exceeds the amounts specified in paragraph (b) of this section.

(a) The total of the net pool obligation computed pursuant to § 1032.70 for such handler; and

(b) The sum of

(1) The value of such handler's producer milk at the applicable uniform prices specified in § 1032.80; and

(2) The value at the weighted average price(s) applicable at the location of the plant(s), from which received (not to be less than the value at the Class II price) with respect to other source milk for which values are computed pursuant to § 1032.70(e): *Provided,* That the applicable weighted average price shall be reduced five cents if the other source milk is received from a plant(s) in the northern zone.

23. Section 1032.85 is revised to read as follows:

§ 1032.85 Payments out of the producer-settlement fund.

On or before the 17th day after the end of each month the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1032.84(b) exceeds the amount computed pursuant to § 1032.84(a). The market administrator shall offset any payment due any handler against payments due from such handler.

24. Section 1032.87 is revised to read as follows:

§ 1032.87 Expense of administration.

As his pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 20th day after the end of the month five cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect (a) to producer milk and such handler's own production, (b) other source milk allocated to Class I pursuant to § 1032.45 (a)(3) and § 1032.45(a)(7) and the corresponding steps of § 1032.45 (b), and (c) Class I milk disposed of on routes in the marketing area from partially regulated distributing plants that exceeds the hundredweight of Class I milk received during the month at such plant from pool plants and other order plants.

PART 1038—MILK IN ROCK RIVER VALLEY MARKETING AREA

1. Section 1038.12 is revised to read as follows:

§ 1038.12 Nonpool plant.

"Nonpool plant" means any milk receiving, manufacturing or processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant and from which fluid milk products labeled Grade A in consumer-type packages or dispenser units are distributed on routes in the marketing area during the month.

(d) "Unregulated supply plant" means a nonpool plant that is a supply plant and is neither an other order plant nor a producer-handler plant.

2. Section 1038.13 is revised to read as follows:

§ 1038.13 Fluid milk plant.

"Fluid milk plant" means:

(a) A pool plant; or

(b) A partially regulated distributing plant.

3. In § 1038.14, "or" is deleted from the end of paragraph (b), a semicolon is substituted for the period at the end of paragraph (c), and new paragraphs (d) and (e) are added to read as follows:

§ 1038.14 Handler.

* * * * *

(d) Any person in his capacity as the operator of an other order plant that is either a distributing plant or a supply plant, or

(e) A producer-handler.

4. Section 1038.16 is revised to read as follows:

§ 1038.16 Producer.

"Producer" means any person, other than a producer-handler as defined in any order (including this part) issued pursuant to the Act, who produces milk in compliance with the Grade A inspection requirements of a duly constituted health authority which milk is received at a pool plant.

§ 1038.21 [Redesignation]

5. Section 1038.21 is redesignated § 1038.19.

6. In § 1038.32, paragraph (f) is amended by deleting the reference "§ 1038.64" and substituting "§ 1038.63" therefor; and additional paragraphs (l), (m), and (n) are added and read as follows:

§ 1038.32 Duties.

* * * * *

(l) Whenever required for purpose of allocating receipts from other order plants pursuant to § 1038.46(a)(8) and the corresponding step of § 1038.46(b), the market administrator shall estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose;

(m) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products from an other order plant, the classification to which such receipts are allocated pursuant to § 1038.46 pursuant to such report, and thereafter any change in such allocation required to correct errors disclosed in verification of such report; and

(n) Furnish to each handler operating a pool plant who has shipped fluid milk products to an other order plant, the classification to which the skim milk and butterfat in such fluid milk products were allocated by the market administrator of the other order on the basis of the report of the receiving handler; and, as necessary, any changes in such classification arising in the verification of such report.

7. The introductory text of § 1038.35 is revised to read as follows:

§ 1038.35 Reports of receipts and utilization.

On or before the 8th day after the end of each month, each handler pursuant to § 1038.14 (a) and (b) shall report to the market administrator for such month, reporting separately for each fluid milk plant, in detail and on forms prescribed by the market administrator:

8. Section 1038.36 is revised to read as follows:

§ 1038.36 Other reports.

* * * * *

(c) Each handler pursuant to § 1038.14(a), (b) and (c) shall report to the market administrator in detail and on forms prescribed by the market administrator on or before the 25th day after the end of the month his producer payroll for such month which shall show for each producer:

(1) His identity;

(2) The quantity of milk received from such producer and the number of days, if less than the entire month, on which milk was received from such producer;

(3) The average butterfat content of such milk; and

(4) The net amount of such handler's payment, together with the price paid and the amount and nature of any deductions.

9. Section 1038.41(b)(6) is revised to read as follows:

§ 1038.41 Classes of utilization.

* * * * *

(b) * * *

(6) Skim milk and butterfat, respectively (except in milk diverted to a nonpool plant pursuant to § 1038.17), in shrinkage but not in excess of:

(i) 2.0 percent of producer milk except that received from a handler pursuant to § 1038.14(c);

(ii) Plus 1.5 percent of producer milk received from a handler pursuant to § 1038.14(c): *Provided,* That if the handler receiving such producer milk files notice with the market administrator that he is purchasing such milk on the basis of farm weights, the applicable percentage shall be two percent;

(iii) Plus 1.5 percent of fluid milk products in bulk from pool plants;

(iv) Plus 1.5 percent of receipts of fluid milk products in bulk from an other order plant, exclusive of the quantity for which Class II utilization was requested by the operator of such plant and the handler;

(v) Plus 1.5 percent of receipts of fluid milk products in bulk from unregulated supply plants, exclusive of the quantity for which Class II utilization was requested by the handler; and

(vi) Less 1.5 percent of bulk fluid milk products transferred to other plants; and

10. Section 1038.42 is revised to read as follows:

§ 1038.42 Shrinkage.

* * * * *

(b) * * *

(1) The net quantity of producer milk and other fluid milk products specified in § 1038.41(b)(6); and

(2) Other source milk exclusive of that specified in § 1038.41(b)(6).

11. Section 1038.44 is revised to read as follows:

§ 1038.44 Transfers.

Skim milk or butterfat in the form of a fluid milk product shall be classified:

(a) At the utilization indicated by the operators of both plants, otherwise as Class I milk, if transferred from a pool plant to another pool plant, subject in either event to the following conditions:

(1) The skim milk or butterfat so assigned to either class shall be limited to the amount thereof remaining in such class in the transferee plant after computations pursuant to § 1038.46(a)(8) and the corresponding step of § 1038.46(b);

(2) If the transferor plant received during the month other source milk to be allocated pursuant to § 1038.46(a)(3), the skim milk and butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor handler received during the month other source milk to be allocated pursuant to § 1038.46(a)(7) and (8) and the corresponding steps of § 1038.46(b), the skim milk and butterfat so transferred up to the total of such receipts shall not be classified as Class I milk to a greater extent than would be applicable to a like quantity of such other source milk received at the transferee plant;

(b) As Class I milk, if transferred from a pool plant to a producer-handler;

(c) As Class I milk, if transferred or diverted to a nonpool plant that is not an other order plant and is more than 150 miles, by the shortest highway distance as determined by the market administrator, from the nearer of the City

Halls of Janesville, Wisconsin and Sterling, Illinois;

(d) As Class I milk, if transferred or diverted in bulk to a nonpool plant that is neither an other order plant nor a producer-handler plant and is not more than 150 miles, by the shortest highway distance as determined by the market administrator, from the nearer of the City Halls of Janesville, Wisconsin and Sterling, Illinois unless the requirements of subparagraphs (1) and (2) of this paragraph are met, in which case the skim milk and butterfat so transferred or diverted shall be classified in accordance with the assignment resulting from subparagraph (3) of this paragraph:

(1) The transferring or diverting handler claims classification pursuant to the assignment set forth in subparagraph (3) of this paragraph in his report submitted to the market administrator pursuant to § 1038.35 for the month within which such transaction occurred;

(2) The operator of such nonpool plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for the purpose of verification; and

(3) The skim milk and butterfat so transferred shall be classified on the basis of the following assignment of utilization at such nonpool plant in excess of receipts of packaged fluid milk products from all pool plants and other order plants:

(i) Any Class I utilization disposed of on routes in the marketing area shall be first assigned to the skim milk and butterfat in the fluid milk products so transferred or diverted from pool plants, next pro rata to receipts from other order plants and thereafter to receipts from dairy farmers who the market administrator determines. constitute regular sources of supply of Grade A milk for such nonpool plant;

(ii) Any Class I utilization disposed of on routes in the marketing area of another order issued pursuant to the Act shall be first assigned to receipts from plants fully regulated by such order, next pro rata to receipts from pool plants and other order plants not regulated by such order, and thereafter to receipts from dairy farmers who the market administrator determines constitute regular sources of supply for such nonpool plant;

(iii) Class I utilization in excess of that assigned pursuant to subdivisions (i) and (ii) of this subparagraph shall be assigned first to remaining receipts from dairy farmers who the market administrator determines constitute the regular source of supply for such nonpool plant and Class I utilization in excess of such receipts shall be assigned pro rata to unassigned receipts at such nonpool plant from all pool and other order plants; and

(iv) To the extent that Class I utilization is not so assigned to it, the skim milk and butterfat so transferred shall be classified as Class II milk; and

(e) As follows, if transferred to an other order plant in excess of receipts from such plant in the same category as described in subparagraph (1), (2) or (3) of this paragraph:

(1) If transferred in packaged form, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated as a fluid milk product under the other order (including allocation under the conditions set forth in subparagraph (3) of this paragraph);

(3) If the operators of both the transferor and transferee plants so request in the reports of receipts and utilization filed with their respective market administrators, transfers in bulk form shall be classified as Class II to the extent of the Class II utilization (or comparable utilization under such other order) available for such assignment pursuant to the allocation provisions of the transferee order;

(4) If information concerning the classification to which allocated under the other order is not available to the market administrator for purposes of establishing classification pursuant to this paragraph, classification shall be as Class I, subject to adjustment when such information is available;

(5) For purposes of this paragraph, if the transferee order provides for more than two classes of utilization, milk allocated to a class consisting primarily of fluid milk products shall be classified as Class I, and milk allocated to other classes shall be classified as Class II; and

(6) If the form in which any fluid milk product is transferred to an other order plant is not defined as a fluid milk product under such other order, classification shall be in accordance with the provisions of § 1038.41.

12. Section 1038.46 is revised to read as follows:

§ 1038.46 Allocation of skim milk and butterfat classified.

After making the computations pursuant to § 1038.45, the market administrator shall determine the classification of producer milk received at each pool plant each month as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class II the pounds of skim milk classified as Class II pursuant to § 1038.41(b)(6);

(2) Subtract from the remaining pounds of skim milk in each class the pounds of skim milk in fluid milk products received in packaged form from other order plants as follows:

(i) From Class II milk, the lesser of the pounds remaining or two percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(3) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class II, the pounds of skim milk in each of the following:

(i) Other source milk in a form other than that of a fluid milk product;

(ii) Receipts of fluid milk products for which Grade A certification is not established, or which are from unidentified sources; and

(iii) Receipts of fluid milk products from a producer-handler, as defined under this or any other Federal order;

(4) Subtract, in the order specified below, from the pounds of skim milk remaining in Class II:

(i) The pounds of skim milk in receipts of fluid milk products from unregulated supply plants for which the handler requests Class II utilization, but not in excess of the pounds of skim milk remaining in Class II;

(ii) The pounds of skim milk remaining in receipts of fluid milk products from unregulated supply plants which are in excess of the pounds of skim milk determined as follows:

(a) Multiply the pounds of skim milk remaining in Class I milk at all pool plants of the handler by 1.25;

(b) Subtract from the result the sum of the pounds of skim milk at all such plants in producer milk, in receipts from other pool handlers and in receipts in bulk from other order plants; and

(c)(1) Multiply any resulting plus quantity by the percentage that receipts of skim milk in fluid milk products from unregulated supply plants remaining at this plant is of all such receipts remaining at all pool plants of such handler, after any deductions pursuant to subdivision (i) of this subparagraph.

(2) Should such computation result in a quantity to be subtracted from Class II which is in excess of the pounds of skim milk remaining in Class II, the pounds of skim milk in Class II shall be increased to the quantity to be subtracted and the pounds of skim milk in Class I shall be decreased a like amount. In such case the utilization of skim milk at other pool plant(s) of such handler shall be adjusted in the reverse direction by an identical amount in sequence beginning with the nearest other pool plant of such handler at which such adjustment can be made;

(iii) Receipts of fluid milk products in bulk from an other order plant in excess of similar transfers to such plant, if Class II utilization was requested by the operator of such plant and the handler;

(5) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class II, the pounds of skim milk in inventory of fluid milk products on hand at the beginning of the month;

(6) Add to the remaining pounds of skim milk in Class II milk the pounds subtracted pursuant to subparagraph (1) of this paragraph;

(7)(i) Subtract from the pounds of skim milk remaining in each class, pro rata to the total pounds of skim milk remaining in each class in all pool plants of the receiving handler, the pounds of skim milk in receipts of fluid milk products from unregulated supply plants that were not subtracted pursuant to subparagraph (4)(i) or (ii) of this paragraph;

(ii) Should such proration result in the amount to be subtracted from any class exceeding the pounds of skim milk remaining in such class in the pool plant at which such skim milk was received,

the pounds of skim milk in such class shall be increased to the amount to be subtracted and the pounds of skim milk in the other class shall be decreased a like amount. In such case the utilization of milk at other pool plant(s) of such handler shall be adjusted in the reverse direction by an identical amount in sequence beginning with the nearest other pool plant of such handler at which such adjustment can be made;

(8) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of fluid milk products in bulk from an other order plant; in excess in each case of similar transfers to the same plant, that were not subtracted pursuant to subparagraph (4)(iii) of this paragraph pursuant to the following procedure:

(i) Subject to the provisions of subdivisions (ii) and (iii) of this subparagraph, such subtraction shall be pro rata to whichever of the following represents the higher proportion of Class II milk:

(*a*) The estimated utilization of skim milk in each class, by all handlers, as announced for the month pursuant to § 1038.32(1); or

(*b*) The pounds of skim milk in each class remaining at all pool plants of the handler;

(ii) Should proration pursuant to subdivision (i) of this subparagraph result in the total pounds of skim milk to be subtracted from Class II at all pool plants of the handler exceeding the pounds of skim milk remaining in Class II at such plants, the pounds of such excess shall be subtracted from the pounds of skim milk remaining in Class I after such proration at the pool plants at which received;

(iii) Except as provided in subdivision (ii) of this subparagraph, should proration pursuant to either subdivision (i) or (ii) of this subparagraph result in the amount to be subtracted from either class exceeding the pounds of skim milk remaining in such class in the pool plant at which such skim milk was received, the pounds of skim milk in such class shall be increased to the amount to be subtracted and the pounds of skim milk in the other class shall be decreased a like amount. In such case the utilization of milk at other pool plant(s) of such handler shall be adjusted in the reverse direction by an identical amount in sequence beginning with the nearest other pool plant of such handler at which such adjustment can be made.

(9) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk received in fluid milk products from other pool plants according to the classification assigned pursuant to § 1038.44;

(10) If the pounds of skim milk remaining in both classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class II. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) Combine the amounts of skim milk and butterfat determined pursuant to paragraphs (a) and (b) of this section into one total for each class and determine the weighted average butterfat content of producer milk in each class.

§ 1038.47 [Revocation]

13. Section 1038.47 is revoked.

14. Section 1038.53 is revised to read as follows:

§ 1038.53 Location differentials to handlers.

(a) The Class I price for producer milk and other source milk (for which a location adjustment is applicable) at a milk plant 115 miles or more from the Chicago City Hall shall be decreased 2 cents for each 15 miles or fraction thereof that such plant is more than 100 miles from the Chicago City Hall, as determined by the market administrator: *Provided,* That the differential pursuant to this section shall not be more than 12 cents at plants in the marketing area;

(b) For the purpose of calculating location differentials, receipts of fluid milk products from pool plants shall be assigned any remainder of Class I milk at the transferee plant that is in excess of the sum of producer milk receipts at such plant and that assigned as Class I to receipts from other order plants and unregulated supply plants. Such assignment shall be made in sequence according to the location differential applicable at each plant, beginning with the plant nearest the City Hall in Chicago, Illinois.

§ 1038.55 [Revocation]

15. Section 1038.55 is revoked.

16. Section 1038.60 is revised to read as follows:

§ 1038.60 Computation of the net pool obligation for each pool plant.

The net pool obligation for each pool plant during each month shall be a sum of money computed by the market administrator as follows:

(a) Multiply the quantity of producer milk in each class, as computed pursuant to § 1038.46(c), by the applicable class prices;

(b) Add the amount obtained from multiplying the overage deducted from each class pursuant to § 1038.46(a)(10) and the corresponding step of § 1038.46(b) by the applicable class prices;

(c) Add the amount obtained from multiplying the difference between the Class II price for the preceding month and the Class I price for the current month by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1038.46(a)(5) and the corresponding step of § 1038.46(b);

(d) Add an amount equal to the difference between the Class I and Class II price values at the pool plant of the skim milk and butterfat subtracted from Class I pursuant to § 1038.46(a)(3) and the corresponding step of § 1038.46(b); and

(e) Add the value at the Class I price, adjusted for location of the nearest nonpool plant(s) from which an equivalent volume was received, of the skim milk and butterfat subtracted from Class I pursuant to § 1038.46(a)(7) and the corresponding step of § 1038.46(b).

17. Section 1038.61(b) is revised to read as follows:

§ 1038.61 Computation of aggregate value used to determine uniform prices.

* * * * *

(b) Add or subtract for each one-tenth percent that the average butterfat content of milk represented by the values specified in paragraph (a) of this section is less or more, respectively, than 3.5 percent, the amount computed by multiplying such difference by the butterfat differential computed pursuant to § 1038.71 and multiplying the result by the total hundredweight of such milk;

18. Section 1038.62 is revised to read as follows:

§ 1038.62 Computation of uniform price.

For each month the market administrator shall compute a uniform price as follows:

(a) Divide the aggregate value computed pursuant to § 1038.61 by the sum of the following:

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1038.60(e); and

(b) Subtract not less than four nor more than five cents from the price computed pursuant to paragraph (a) of this section.

19. Section 1038.64 is redesignated § 1038.63 and is revised to read as follows:

§ 1038.63 Obligations of handler operating a partially regulated distributing plant.

Each handler who operates a partially regulated distributing plant shall pay to the market administrator for the producer-settlement fund on or before the 25th day after the end of the month either of the amounts (at the handler's election) calculated pursuant to paragraph (a) or (b) of this section. If the handler fails to report pursuant to § 1038.35 the information necessary to compute the amount specified in paragraph (a) of this section, he shall pay the amount computed pursuant to paragraph (b) of this section:

(a) An amount computed as follows:

(1)(i) The obligation that would have been computed pursuant to § 1038.60 at such plant shall be determined as though such plant were a pool plant. For purposes of such computation, receipts at such nonpool plant from a pool plant or an other order plant shall be assigned to the utilization at which classified at the pool plant or other order plant and transfers from such nonpool plant to a pool plant or an other order plant shall be classified as Class II milk if allocated to such class at the pool plant or other order plant and be valued at the uniform price of the respective order if so allocated to Class I milk. There shall be included in the obligation so computed a charge in the amount specified in

§ 1038.60(e) and a credit in the amount specified in § 1038.74(b)(2) with respect to receipts from an unregulated supply plant, unless an obligation with respect to such plant is computed as specified below in this subparagraph.

(ii) If the operator of the partially regulated distributing plant so requests, and provides with his reports pursuant to § 1038.35 a similar report with respect to the operations of any other nonpool plant which serves as a supply plant for such partially regulated distributing plant by shipments to such plant during the month equivalent to the requirements of § 1038.11(b), with agreement of the operator of such plant that the market administrator may examine the books and records of such plant for purposes of verification of such reports, there will be added the amount of the obligation computed at such nonpool supply plant in the same manner and subject to the same conditions as for the partially regulated distributing plant.

(2) From this obligation there will be deducted the sum of (i) the gross payments made by such handler for Grade A milk received during the month from dairy farmers at such plant and like payments made by the operator of a supply plant(s) included in the computations pursuant to subparagraph (1) of this paragraph, and (ii) any payments to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant.

(b) An amount computed as follows:

(1) Determine the respective amounts of skim milk and butterfat disposed of as Class I milk on routes in the marketing area;

(2) Deduct (except that deducted under a similar provision of another order issued pursuant to the Act) the respective amounts of skim milk and butterfat received as Class I milk at the partially regulated distributing plant from pool plants and other order plants;

(3) Combine the amounts of skim milk and butterfat remaining into one total and determine the weighted average butterfat content; and

(4) From the value of such milk at the Class I price applicable at the location of the nonpool plant, subtract its value at the uniform price pursuant to § 1038.62 at the same location or at the Class II price, whichever is higher.

§ 1038.64 [Redesignation]

20. Section 1038.65 is redesignated § 1038.64.

21. Section 1038.72 is revised to read as follows:

§ 1038.72 Location differentials to producers and on nonpool milk.

(a) The uniform price for producer milk received at a pool plant 115 miles or more from the Chicago City Hall shall be decreased two cents for each 15 miles or fraction thereof that such plant is more than 100 miles from the Chicago City Hall, as determined by the market administrator: *Provided*, That the differential pursuant to this section shall not be more than 12 cents at plants in the marketing area.

(b) For purposes of computations pursuant to §§ 1038.74 and 1038.75 the uniform price shall be adjusted at the rates set forth in § 1038.53 applicable at the location of the nonpool plant from which the milk was received.

§ 1038.73 [Amendment]

22. In § 1038.73, the reference to "§ 1038.64" is deleted and "§ 1038.63" is substituted therefor.

23. Section 1038.74 is revised to read as follows:

§ 1038.74 Payments to the producer-settlement fund.

On or before the 15th day after the end of the month each handler shall pay to the market administrator the amount, if any, by which the total amounts specified in paragraph (a) of this section exceed the amounts specified in paragraph (b) of this section:

(a) The net pool obligation computed pursuant to § 1038.60 for such handler;

(b) The sum of:

(1) The value of such handler's producer milk at the applicable uniform price; and

(2) The value at the uniform price(s) applicable at the location of the plant(s), from which received (not to be less than the value at the Class II price) with respect to other source milk for which a value is computed pursuant to § 1038.60 (e).

24. Section 1038.75 is revised to read as follows:

§ 1038.75 Payments from the producer-settlement fund.

On or before the 16th day after the end of each month the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1038.74(b) exceeds the amount computed pursuant to § 1038.60: *Provided*, That if the balance in the producer-settlement fund is insufficient to make all payments pursuant to this section, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the necessary funds become available.

25. Section 1038.78 is revised to read as follows:

§ 1038.78 Expense of administration.

As his pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 15th day after the end of the month four cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect to (a) producer milk (including such handler's own production), (b) other source milk allocated to Class I pursuant to § 1038.46(a) (3) and (7) and the corresponding steps of § 1038.46 (b), and (c) Class I milk disposed of in the marketing area from a partially regulated distributing plant that exceeds the hundredweight of Class I milk received during the month at such plant from pool plants and other order plants.

PART 1039—MILK IN MILWAUKEE, WIS., MARKETING AREA

1. Section 1039.7 is revised to read as follows:

§ 1039.7 Producer.

"Producer" means any person, other than a producer-handler as defined in any order (including this part) issued pursuant to the Act, who produces milk in compliance with the Grade A inspection requirements of a duly constituted health authority, which milk is received at a pool plant.

2. Section 1039.11 is revised to read as follows:

§ 1039.11 Nonpool plant.

"Nonpool plant" means any milk receiving, manufacturing or processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant and from which fluid milk products labeled Grade A in consumer-type packages or dispenser units are distributed on routes in the marketing area during the month.

(d) "Unregulated supply plant" means a nonpool plant that is a supply plant and is neither an other order plant nor a producer-handler plant.

3. Section 1039.12(a)–(d) are revised to read as follows:

§ 1039.12 Handler.

* * * * *

(a) Any person in his capacity as the operator of a pool plant,

(b) Any person in his capacity as the operator of a partially regulated distributing plant,

(c) Any person in his capacity as the operator of an other order plant that is either a distributing plant or a supply plant, or

(d) A producer-handler.

4. In § 1039.27, additional paragraphs (l) and (m) are added and read as follows:

§ 1039.27 Duties.

* * * * *

(l) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products from an other order plant, the classification to which such receipts are allocated pursuant to § 1039.46 pursuant to such report, and thereafter any change in such allocation required to correct errors disclosed in verification of such report; and

(m) Furnish to each handler operating a pool plant who has shipped fluid milk products to an other order plant, the classification to which the skim milk and butterfat in such fluid milk products were allocated by the market administrator of the other order on the basis of the report of the receiving handler; and, as necessary, any changes in such classification arising in the verification of such report.

5. Section 1039.30 is revised to read as follows:

§ 1039.30 Monthly reports of receipts and utilization.

On or before the 7th day after the end of each month, each handler pursuant to § 1039.12 (a) and (b) shall report to the market administrator for such month, in detail and on forms prescribed by the market administrator as follows:

(a) Each handler for each pool plant shall report:

(1) The quantities of skim milk and butterfat contained in or represented by:

(i) Producer milk (including for the months of March through June the aggregate amount of base and excess milk),

(ii) Fluid milk products received from pool plants,

(iii) Other source milk,

(iv) Milk diverted to nonpool plants pursuant to § 1039.14, and

(v) Inventories of fluid milk products on hand at the beginning and end of the month;

(2) The utilization of all skim milk and butterfat required to be reported pursuant to this section, including a separate statement of the disposition of Class I milk outside the marketing area; and

(3) Such other information with respect to the receipts and utilization of skim milk and butterfat as the market administrator may prescribe.

(b) Each handler specified in § 1039.12 (b) who operates a partially regulated distributing plant shall report as required in paragraph (a) of this section, except that receipts of Grade A milk from dairy farmers shall be reported in lieu of those in producer milk. Such report shall include a separate statement showing the respective amounts of skim milk and butterfat disposed of on routes in the marketing area as Class I milk.

6. Section 1039.31 is revised to read as follows:

§ 1039.31 Other reports.

* * * * *

(b) Each handler pursuant to § 1039.12(a) shall report to the market administrator in detail and on forms prescribed by the market administrator, on or before the 19th day after the end of the month for each of his pool plants, his producer payroll for such month which shall show for each producer:

(1) His name and address;

(2) The total pounds of milk received from each producer (including for the months of March through June the total pounds of base and excess milk) and the number of days, if less than the entire month, on which milk was received from such producer;

(3) The average butterfat content of such milk; and

(4) The net amount of such handler's payment, together with the price paid and the amount and nature of any deductions.

7. Section 1039.41(b) is revised to read as follows:

§ 1039.41 Classes of utilization.

* * * * *

(b) * * *

(6) Skim milk and butterfat, respectively, in shrinkage but not in excess of:

(i) 2.0 percent of producer milk;

(ii) Plus 1.5 percent of fluid milk products in bulk received by transfer or diversion from pool plants;

(iii) Plus 1.5 percent of receipts of fluid milk products in bulk from other order plants, exclusive of the quantity for which Class II utilization was requested by the operators of both plants;

(iv) Plus 1.5 percent of fluid milk products in bulk from unregulated supply plants, exclusive of the quantity for which Class II utilization was requested by the handler; and

(v) Less 1.5 percent of fluid milk products in bulk transferred or diverted to other plants; and

(7) In shrinkage of skim milk and butterfat, respectively, assigned pursuant to § 1039.42(b)(2).

8. Section 1039.42 is revised to read as follows:

§ 1039.42 Shrinkage.

The market administrator shall allocate shrinkage over a handler's receipts for each of his pool plants as follows:

(a) Compute the total shrinkage of skim milk and butterfat, respectively, at each pool plant; and

(b) Prorate the resulting amounts between receipts of skim milk and butterfat contained in:

(1) The net quantity of producer milk and other fluid milk products specified in § 1039.41(b)(6); and

(2) Other source milk exclusive of that specified in § 1039.41(b)(6).

9. Section 1039.44 is revised to read as follows:

§ 1039.44 Transfers.

Skim milk or butterfat in the form of a fluid milk product shall be classified:

(a) At the utilization indicated by the operators of both plants, otherwise as Class I milk, if transferred or diverted from a pool plant to another pool plant, subject in either event to the following conditions:

(1) The skim milk or butterfat so assigned to either class shall be limited to the amount thereof remaining in such class in the transferee plant after computations pursuant to § 1039.46(a)(7) and the corresponding step in § 1039.46(b);

(2) If the transferor plant received during the month other source milk to be allocated pursuant to § 1039.46(a)(3), the skim milk and butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor handler received during the month other source milk to be allocated pursuant to § 1039.46(a)

(7) and the corresponding step of § 1039.46(b), the skim milk and butterfat so transferred up to the total of such receipts shall not be classified as Class I milk to a greater extent than would be applicable to a like quantity of such other source milk received at the transferee plant;

(b) As Class I milk, if transferred from a pool plant to a producer-handler;

(c) As Class I milk, if transferred or diverted to a nonpool plant that is not an other order plant and is outside the State of Wisconsin and more than 150 miles, by the shortest highway distance as determined by the market administrator, from the City Hall of Milwaukee, Wisconsin;

(d) As Class I milk, if transferred or diverted in bulk to a nonpool plant that is neither an other order plant nor a producer-handler plant and is within the State of Wisconsin or not more than 150 miles, by the shortest highway distance as determined by the market administrator, from the City Hall of Milwaukee, Wisconsin, unless the requirements of subparagraphs (1) and (2) of this paragraph are met, in which case the skim milk and butterfat so transferred or diverted shall be classified in accordance with the assignment resulting from subparagraph (3) of this paragraph:

(1) The transferring or diverting handler claims classification pursuant to the assignment set forth in subparagraph (3) of this paragraph in his report submitted to the market administrator pursuant to § 1039.30 for the month within which such transaction occurred;

(2) The operator of such nonpool plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for the purpose of verification; and

(3) The skim milk and butterfat so transferred shall be classified on the basis of the following assignment of utilization at such nonpool plant in excess of receipts of packaged fluid milk products from all pool plants and other order plants:

(i) Any Class I utilization disposed of on routes in the marketing area shall be first assigned to the skim milk and butterfat in the fluid milk products so transferred or diverted from pool plants, next pro rata to receipts from other order plants and thereafter to receipts from dairy farmers who the market administrator determines constitute regular sources of supply of Grade A milk for such nonpool plant;

(ii) Any Class I utilization disposed of on routes in the marketing area of another order issued pursuant to the Act shall be first assigned to receipts from plants fully regulated by such order, next pro rata to receipts from other order plants not regulated by such order, and thereafter to receipts from dairy farmers who the market administrator determines constitute regular sources of supply for such nonpool plant;

(iii) Class I utilization in excess of that assigned pursuant to subdivisions (i) and (ii) of this subparagraph shall be assigned first to remaining receipts from dairy farmers who the market administrator determines constitute the regular source of supply for such nonpool plant and Class I utilization in excess of such receipts shall be assigned pro rata to unassigned receipts at such nonpool plant from all pool and other order plants; and

(iv) To the extent that Class I utilization is not so assigned to it, the skim milk and butterfat so transferred shall be classified as Class II milk; and

(e) As follows, if transferred to an other order plant in excess of receipts from such plant in the same category as described in subparagraph (1), (2) or (3) of this paragraph:

(1) If transferred in packaged form, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated as a fluid milk product under the other order (including allocation under the conditions set forth in subparagraph (3) of this paragraph);

(3) If the operators of both the transferor and transferee plants so request in the reports of receipts and utilization filed with their respective market administrators, transfers in bulk form shall be classified as Class II to the extent of the Class II utilization (or comparable utilization under such other order) available for such assignment pursuant to the allocation provisions of the transferee order;

(4) If information concerning the classification to which allocated under the other order is not available to the market administrator for purposes of establishing classification pursuant to this paragraph, classification shall be as Class I, subject to adjustment when such information is available;

(5) For purposes of this paragraph (e), if the transferee order provides for more than two classes of utilization, milk allocated to a class consisting primarily of fluid milk products shall be classified as Class I, and milk allocated to other classes shall be classified as Class II; and

(6) If the form in which any fluid milk products is transferred to an other order plant is not defined as a fluid milk product under such other order, classification shall be in accordance with the provisions of § 1039.41.

10. Section 1039.46 is revised to read as follows:

§ 1039.46 Allocation of skim milk and butterfat classified.

After making the computations pursuant to § 1039.45, the market administrator shall determine the classification of producer milk at each pool plant each month as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class II the pounds of skim milk classified as Class II pursuant to § 1039.41(b)(6);

(2) Subtract from the remaining pounds of skim milk in each class the pounds of skim milk in fluid milk products received in packaged form from other order plants as follows:

(i) From Class II milk, the lesser of the pounds remaining or two percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(3) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class II, the pounds of skim milk in each of the following:

(i) Other source milk in a form other than that of a fluid milk product;

(ii) Receipts of fluid milk products for which Grade A certification is not established, or which are from unidentified sources; and

(iii) Receipts of fluid milk products from a producer-handler, as defined under this or any other Federal order;

(4) Subtract, in the order specified below, from the pounds of skim milk remaining in Class II:

(i) The pounds of skim milk in receipts of fluid milk products from unregulated supply plants for which the handler requests Class II utilization, but not in excess of the pounds of skim milk remaining in Class II;

(ii) The pounds of skim milk remaining in receipts of fluid milk products from unregulated supply plants which are in excess of the pounds of skim milk determined as follows:

(*a*) Multiply the pounds of skim milk remaining in Class I milk at all pool plants of the handler by 1.25;

(*b*) Subtract from the result the sum of the pounds of skim milk at all such plants in producer milk, in receipts from other pool handlers and in receipts in bulk from other order plants; and

(*c*) (*1*) Multiply any resulting plus quantity by the percentage that receipts of skim milk in fluid milk products from unregulated supply plants remaining at this plant is of all such receipts remaining at all pool plants of such handler, after any deductions pursuant to subdivision (i) of this subparagraph.

(2) Should such computation result in a quantity to be subtracted from Class II which is in excess of the pounds of skim milk remaining in Class II, the pounds of skim milk in Class II shall be increased to the quantity to be subtracted and the pounds of skim milk in Class I shall be decreased a like amount. In such case the utilization of skim milk at other pool plant(s) of such handler shall be adjusted in the reverse direction by an identical amount in sequence beginning with the nearest other pool plant of such handler at which such adjustment can be made;

(iii) The pounds of skim milk in receipts of fluid milk products in bulk from an other order plant in excess of similar transfers to such plant, but not in excess of the pounds of skim milk remaining in Class II milk, if Class II utilization was requested by the operator of such plant and the handler;

(5) Subtract from the pounds of skim milk remaining in each class in series beginning with Class II, the pounds of skim milk in inventory of fluid milk products on hand at the beginning of the month;

(6) Add to the remaining pounds of skim milk in Class II milk the pounds subtracted pursuant to subparagraph (1) of this paragraph;

(7) Subtract from the pounds of skim milk remaining in each class, pro rata to the total pounds of skim milk remaining in each class in all pool plants of the receiving handler:

(i) The pounds of skim milk in receipts of fluid milk products from unregulated supply plants that were not subtracted pursuant to subparagraph (4) (i) or (ii) of this paragraph; and

(ii) (*a*) The pounds of skim milk in receipts of fluid milk products in bulk from an other order plant(s), in excess in each case of similar transfers to the same plant, that were not subtracted pursuant to subparagraph (4) (iii) of this paragraph:

(*b*) Should such proration result in the amount to be subtracted from any class exceeding the pounds of skim milk remaining in such class in the pool plant at which such skim milk was received, the pounds of skim milk in such class shall be increased to the amount to be subtracted and the pounds of skim milk in the other class shall be decreased a like amount. In such case the utilization of milk at other pool plant(s) of such handler shall be adjusted in the reverse direction by an identical amount in sequence beginning with the nearest other pool plant of such handler at which such adjustment can be made;

(8) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk received in fluid milk products from other pool plants according to the classification assigned pursuant to § 1039.44(a);

(9) If the pounds of skim milk remaining in both classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class II. Any amount so subtracted shall be known as "overage".

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) Combine the amounts of skim milk and butterfat determined pursuant to paragraphs (a) and (b) of this section into one total for each class and determine the weighted average butterfat content of producer milk in each class.

11. Section 1039.53 is revised to read as follows:

§ 1039.53 Location adjustments to handlers.

(a) The Class I price for producer milk and other source milk (for which a location adjustment is applicable) at a plant less than 70 miles from the City Hall in Chicago, Illinois, as determined by the market administrator, shall be increased 4 cents and at a plant 145 miles or more from the Chicago City Hall shall be decreased 2 cents for each 15 miles or fraction thereof that such plant is more than 130 miles from the Chicago City Hall, as determined by the market administrator; and

(b) For the purpose of calculating location differentials, receipts of fluid milk products from pool plants shall be assigned any remainder of Class I milk at the transferee plant that is in excess of the sum of producer milk receipts at such plant and that assigned as Class I to receipts from other order plants and unregulated supply plants. Such assignment shall be made in sequence according to the location differential applicable at each plant, beginning with the plant nearest the City Hall in Chicago, Illinois.

12. Section 1039.60 is revised to read as follows:

§ 1039.60 Computation of the net obligation of each handler.

The net obligation of each handler during each month at each pool plant shall be a sum of money computed by the market administrator as follows:

(a) Multiply the quantity of producer milk in each class, as computed pursuant to § 1039.46(c), by the applicable class prices;

(b) Add the amounts obtained from multiplying the overage deducted pursuant to § 1039.46(a)(9) and the corresponding step of § 1039.46(b) by the applicable class prices;

(c) Add the amount obtained from multiplying the difference between the Class II price for the preceding month and the Class I price for the current month by the lesser of:

(1) The hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1039.46(a)(5) and the corresponding step of § 1039.46(b); or

(2) The hundredweight of skim milk and butterfat remaining in Class II (exclusive of shrinkage) after computations pursuant to § 1039.46(a)(7)(i) and the corresponding step of § 1039.46(b) for the preceding month; and

(d) Add or subtract, as the case may be, an amount necessary to correct errors discovered by the market administrator in the verification of reports of such handler of his receipts and utilization of skim milk and butterfat for previous months.

13. Section 1039.75 is revised to read as follows:

§ 1039.75 Expense of administration.

As his pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 15th day after the end of the month, 3 cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect to (a) producer milk (including such handler's own production), and (b) other source milk allocated to Class I pursuant to § 1039.46(a) (3) and (7)(i) and the corresponding steps of § 1039.46(b).

PART 1045—MILK IN NORTHEASTERN WISCONSIN MARKETING AREA

1. Section 1045.7 is revised to read as follows:

§ 1045.7 Producer.

"Producer" means any person, other than a producer-handler as defined in any order (including this part) issued pursuant to the Act, who produces Grade A milk in conformity with the sanitation requirements of a duly constituted health authority, whose milk is received at a pool plant.

2. Section 1045.11 is revised to read as follows:

§ 1045.11 Handler.

* * * * *

(b) Any person who operates a partially regulated distributing plant;

(c) A cooperative association with respect to milk of producers diverted for the account of such association from a pool plant to a nonpool plant;

(d) A person in his capacity as the operator of an other order plant that is either a distributing plant or a supply plant; or

(e) A producer-handler.

3. A new § 1045.17 is added to read as follows:

§ 1045.17 Nonpool plant.

"Nonpool plant" means any milk receiving, manufacturing or processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a nonpool plant that is not an other order plant, the plant of an exempt handler pursuant to § 1045.81 or a producer-handler plant and from which fluid milk products labeled Grade A in consumer-type packages or dispenser units are distributed on routes in the marketing area during the month.

(d) "Unregulated supply plant" means a nonpool plant that is a supply plant and is neither an other order plant nor a producer-handler plant.

§ 1045.18 [Redesignation]

4. Section 1045.19 is redesignated § 1045.18.

§ 1045.22 [Amendment]

5. In § 1045.22(i)(2), the reference "§ 1045.64" is deleted and "§ 1045.63" is substituted therefor.

6. In § 1045.22, additional paragraphs (j), (k) and (l) are added and read as follows:

§ 1045.22 Duties.

* * * * *

(j) Whenever required for purpose of allocating receipts from other order plants pursuant to § 1045.46(a)(7) and the corresponding step of § 1045.46(b), the market administrator shall estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose;

(k) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products from an other order plant, the classification to which such receipts are allocated pursuant to § 1045.46 pursuant to such report, and thereafter any change in such allocation required to correct errors disclosed in vertification of such report; and

(l) Furnish to each handler operating a pool plant who has shipped fluid milk products to an other order plant, the classification to which the skim milk and butterfat in such fluid milk products were allocated by the market administrator of the other order on the basis of the report of the receiving handler; and, as necessary, any changes in such classification arising in the verification of such report.

7. In § 1045.30, paragraphs (b) and (c) are redesignated (c) and (d), respectively, and a new paragraph (b) is added to read as follows:

§ 1045.30 Reports of receipts and utilization.

* * * * *

(b) Each handler specified in § 1045.11(b) who operates a partially regulated distributing plant shall report as required in paragraph (a) of this section and pursuant to § 1045.32 if he wishes computations pursuant to § 1045.83(a) to be considered in determining his obligation pursuant to § 1045.83. Such report shall include a separate statement of the respective amounts of skim milk and butterfat disposed of on routes in the marketing area as Class I milk;

8. The introductory text of § 1045.31 is revised to read as follows:

§ 1045.31 Payroll reports.

On or before the 25th day of each month each handler pursuant to § 1045.11 (a), (b) and (c) shall report his producer or dairy farmer payroll for each plant for the preceding month which shall show:

9. Section 1045.41(b)(5) is revised to read as follows:

§ 1045.41 Classes of utilization.

* * * * *

(b) * * *

(5) Skim milk and butterfat, respectively, in shrinkage but not in excess of:

(i) 2.0 percent of producer milk;

(ii) Plus 2.0 percent of fluid milk products in bulk from other order plants, exclusive of the quantity for which Class II utilization was requested by the operators of both plants;

(iii) Plus 2.0 percent of fluid milk products in bulk from unregulated supply plants, exclusive of the quantity for which Class II utilization was requested by the handler; and

(iv) Less 2.0 percent of fluid milk products transferred in bulk to other order plants; and

10. Section 1045.42 is revised to read as follows:

§ 1045.42 Shrinkage.

The market administrator shall allocate shrinkage over a handler's receipts as follows:

(a) Compute the total shrinkage of the skim milk and butterfat, respectively, for each handler; and

(b) Prorate the resulting amounts between the receipts of skim milk and butterfat contained in:

(1) The net quantity of producer milk and other fluid milk products specified in § 1045.41(b)(5); and

(2) Other source milk exclusive of that specified in § 1045.41(b)(5).

11. Section 1045.43 is revised to read as follows:

§ 1045.43 Transfers.

Skim milk or butterfat in the form of a fluid milk product shall be classified:

(a) At the utilization indicated by the operators of both plants, otherwise as Class I milk, if transferred from a pool plant to the pool plant of another handler, subject in either event to the following conditions:

(1) The skim milk or butterfat so assigned to either class shall be limited to the amount thereof remaining in such class in the transferee plant after computation pursuant to § 1045.46(a)(8) and the corresponding step of § 1045.46(b);

(2) If the transferor plant received during the month other source milk to be allocated pursuant to § 1045.46(a)(3), the skim milk and butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor handler received during the month other source milk to be allocated pursuant to § 1045.46(a)(7) or (8) and the corresponding steps of § 1045.46(b), the skim milk and butterfat so transferred up to the total of such receipts shall not be classified as Class I milk to a greater extent than would be applicable to a like quantity of such other source milk received at the transferee plant;

(b) As Class I milk, if transferred from a pool plant to a producer-handler or to an exempt handler pursuant to § 1045.81;

(c) As Class I milk, if transferred or diverted in bulk to a nonpool plant that is not an other order plant, a producer-handler plant or the plant of an exempt handler, unless the requirements of subparagraphs (1) and (2) of this paragraph are met, in which case the skim milk and butterfat so transferred or diverted shall be classified in accordance with the assignment resulting from subparagraph (3) of this paragraph;

(1) The transferring or diverting handler claims classification pursuant to the assignment set forth in subparagraph (3) of this paragraph in his report submitted to the market administrator pursuant to § 1045.30 for the month within which such transaction occurred;

(2) The operator of such nonpool plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for the purpose of verification; and

(3) The skim milk and butterfat so transferred shall be classified on the basis of the following assignment of utilization at such nonpool plant in excess of receipts of packaged fluid milk products from all pool plants and other order plants:

(i) Any Class I utilization disposed of on routes in the marketing area shall be first assigned to the skim milk and butterfat in the fluid milk products so transferred or diverted from pool plants, next pro rata to receipts from other order plants and thereafter to receipts from dairy farmers who the market administrator determines constitute regular sources of supply of Grade A milk for such nonpool plant;

(ii) Any Class I utilization disposed of on routes in the marketing area of another order issued pursuant to the Act shall be first assigned to receipts from plants fully regulated by such order, next pro rata to receipts from pool plants and other order plants not regulated by such order, and thereafter to receipts from dairy farmers who the market administrator determines constitute regular sources of supply for such nonpool plant;

(iii) Class I utilization in excess of that assigned pursuant to subdivisions (i) and (ii) of this subparagraph shall be assigned first to remaining receipts from dairy farmers who the market administrator determines constitute the regular source of supply for such nonpool plant and Class I utilization in excess of such receipts shall be assigned pro rata to unassigned receipts at such nonpool plant from all pool and other order plants; and

(iv) To the extent that Class I utilization is not so assigned to it, the skim milk and butterfat so transferred shall be classified as Class II milk;

(d) As follows, if transferred to an other order plant in excess of receipts from such plant in the same category as described in subparagraph (1), (2) or (3) of this paragraph:

(1) If transferred in packaged form, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated as a fluid milk product under the other order (including allocation under the conditions set forth in subparagraph (3) of this paragraph);

(3) If the operators of both the transferor and transferee plants so request in the reports of receipts and utilization filed with their respective market administrators, transfers in bulk form shall be classified as Class II to the extent of the Class II utilization (or comparable utilization under such other order) available for such assignment pursuant to the allocation provisions of the transferee order;

(4) If information concerning the classification to which allocated under the other order is not available to the market administrator for purposes of establishing classification pursuant to this paragraph, classification shall be as Class I, subject to adjustment when such information is available;

(5) For purposes of this paragraph, if the transferee order provides for more than two classes of utilization, milk allocated to a class consisting primarily of fluid milk products shall be classified as Class I, and milk allocated to other classes shall be classified as Class II; and

(6) If the form in which any fluid milk product is transferred to an other order plant is not defined as a fluid milk product under such other order, classification shall be in accordance with the provisions of § 1045.41.

12. Section 1045.46 is revised to read as follows:

§ 1045.46 Allocation of skim milk and butterfat classified.

After making the computations pursuant to § 1045.45, the market administrator shall determine the classification of producer milk for each handler as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class II the pounds of skim milk classified as Class II pursuant to § 1045.41(b)(5);

(2) Subtract from the remaining pounds of skim milk in each class the pounds of skim milk in fluid milk products received in packaged form from other order plants as follows:

(i) From Class II milk, the lesser of the pounds remaining or two percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(3) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class II, the pounds of skim milk in each of the following:

(i) Other source milk in a form other than that of a fluid milk product;

(ii) Receipts of fluid milk products for which Grade A certification is not established, or which are from unidentified sources; and

(iii) Receipts of fluid milk products from a producer-handler, as defined under this or any other Federal order;

(4) Subtract, in the order specified below, from the pounds of skim milk remaining in Class II, but not in excess of such quantity:

(i) Receipts of fluid milk products from an unregulated supply plant:

(*a*) For which the handler requests Class II utilization; or

(*b*) Which are in excess of the pounds of skim milk determined by subtracting from 125 percent of the pounds of skim milk remaining in Class I milk the sum of the pounds of skim milk in producer milk, receipts from pool plants of other handlers, and receipts in bulk from other order plants; and

(ii) Receipts of fluid milk products in bulk from an other order plant in excess of similar transfers to such plant, if Class II utilization was requested by the operator of such plant and the handler;

(5) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class II, the pounds of skim milk in inventory of fluid milk products on hand at the beginning of the month;

(6) Add to the remaining pounds of skim milk in Class II milk the pounds subtracted pursuant to subparagraph (1) of this paragraph;

(7) Subtract from the pounds of skim milk remaining in each class, pro rata to such quantities, the pounds of skim milk in receipts of fluid milk products from unregulated supply plants which were not subtracted pursuant to subparagraph (4)(i) of this paragraph;

(8) Subtract from the pounds of skim milk remaining in each class, in the following order, the pounds of skim milk in receipts of fluid milk products in bulk from an other order plant(s), in excess in each case of similar transfers to the same plant, which were not subtracted pursuant to subparagraph (4)(ii) of this paragraph:

(i) In series beginning with Class II, the pounds determined by multiplying the pounds of such receipts by the larger of the percentage of estimated Class II utilization of skim milk announced for the month by the market administrator pursuant to § 1045.22(j) or the percentage that Class II utilization remaining is of the total remaining utilization of skim milk of the handler; and

(ii) From Class I, the remaining pounds of such receipts;

(9) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk received in fluid milk products from other pool plants according to the classification assigned pursuant to § 1045.43(a);

(10) If the pounds of skim milk remaining in both classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class II. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) Combine the amounts of skim milk and butterfat determined pursuant to paragraphs (a) and (b) of this section into one total for each class and determine the weighted average butterfat content of producer milk in each class.

§§ 1045.47, 1045.48 [Revocations]

13. Sections 1045.47 and 1045.48 are revoked.

14. Section 1045.60 is revised to read as follows:

§ 1045.60 Computation of the net pool obligation of each handler.

The net pool obligation of each handler in his capacity as the operator of a pool plant or a handler pursuant to § 1045.11(c) during each month shall be a sum of money computed by the market administrator as follows:

(a) Multiply the quantity of producer milk in each class, as computed pursuant to § 1045.46(c), by the applicable class prices;

(b) Add the amount obtained from multiplying the overage deducted from each class pursuant to § 1045.46(a)(10) and the corresponding step of § 1045.46 (b) by the applicable class prices;

(c) Add the amount obtained from multiplying the difference between the Class II price for the preceding month and the Class I price for the current month by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1045.46(a)(5) and the corresponding step of § 1045.46(b);

(d) Add an amount equal to the difference between the Class I and Class II price values at the pool plant of the skim milk and butterfat subtracted from Class I pursuant to § 1045.46(a)(3) and the corresponding step of § 1045.46(b); and

(e) Add the value at the Class I price, adjusted for location of the nonpool plant(s) from which an equivalent volume was received, of the skim milk and butterfat subtracted from Class I pursuant to § 1045.46(a)(7) and the corresponding step of § 1045.46(b).

15. Section 1045.61 (b) and (c) is revised to read as follows:

§ 1045.61 Computation of aggregate value used to determine uniform price.

* * * * *

(b) Add or subtract for each one-tenth percent that the average butterfat content of milk represented by the values specified in paragraph (a) of this section is less or more, respectively, than 3.5 percent, the amount computed by multiplying such difference by the butterfat differential computed pursuant to § 1045.63 and multiplying the result by the total hundredweight of such milk;

(c) Subtract the aggregate of the values of the applicable location adjustments pursuant to § 1045.64; and

16. Section 1045.62 is revised to read as follows:

§ 1045.62 Computation of uniform price.

For each month the market administrator shall compute a uniform price as follows:

(a) Divide the aggregate value computed pursuant to § 1045.61 by the sum of the following:

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1045.60(e); and

(b) Subtract not less than four nor more than five cents from the price computed pursuant to paragraph (a) of this section.

§§ 1045.63 and 1045.65 [Redesignations]

17. Sections 1045.64, 1045.65 and 1045.66 are redesignated §§ 1045.63, 1045.64 and 1045.65, respectively, and § 1045.64 is revised to read as follows:

§ 1045.64 Location differentials to producers and on nonpool milk.

The uniform price pursuant to § 1045.62 shall be increased 10 cents for milk received at a plant in the Wisconsin counties of Florence, Forest, Marinette, Oneida or in the State of Michigan.

§ 1045.70 [Amendment]

18. In § 1045.70 the references to "§§ 1045.64" and "1045.65" are deleted and "§§ 1045.63" and "1045.64", respectively, are substituted therefor.

§ 1045.71 [Amendment]

19. In § 1045.71 the reference to "1045.83 (a)(1) and (b)(1)" is deleted and "1045.83" is substituted therefor.

20. Section 1045.72 is revised to read as follows:

§ 1045.72 Payments to the producer-settlement fund.

On or before the 16th day after the end of the month each handler shall pay to the market administrator the amount, if any, by which the total amounts specified in paragraph (a) of this section exceed the amounts specified in paragraph (b) of this section;

(a) The net pool obligation computed pursuant to § 1045.60 for such handler; and

(b) The sum of:

(1) The value of such handler's producer milk at the applicable uniform price; and

(2) The value at the uniform price(s) applicable at the location of the plant(s), from which received (not to be less than the value at the Class II price) with respect to other source milk for which a value is computed pursuant to § 1045.60(e).

21. Section 1045.73 is revised to read as follows:

§ 1045.73 Payments out of the producer-settlement fund.

On or before the 17th day after the end of each month, the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1045.72(b) exceeds the amount computed pursuant to § 1045.72 (a). If the balance in the producer-settlement fund is insufficient to make all payments to all such handlers pursuant to this paragraph, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the necessary funds become available.

22. Section 1045.74 is revised to read as follows:

§ 1045.74 Expense of administration.

As his pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 16th day after the end of the month, 5 cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect to (a) producer milk (including such handler's own production), (b) other source milk allocated to Class I pursuant to § 1045.46(a) (3) and (7) and the corresponding steps of § 1045.46 (b), and (c) Class I milk disposed of in the marketing area from a partially regulated distributing plant that exceeds the hundredweight of Class I milk received during the month at such plant from pool plants and other order plants.

23. Section 1045.83 is revised to read as follows:

§ 1045.83 Obligations of handler operating a partially regulated distributing plant.

Each handler who operates a partially regulated distributing plant shall pay to the market administrator for the producer-settlement fund on or before the 25th day after the end of the month either of the amounts (at the handler's election) calculated pursuant to paragraph (a) or (b) of this section. If the handler fails to report pursuant to §§ 1045.30(b) and 1045.31 the information necessary to compute the amount specified in paragraph (a) of this section, he shall pay the amount computed pursuant to paragraph (b) of this section:

(a) An amount computed as follows:

(1)(i) The obligation that would have been computed pursuant to § 1045.60 at such plant shall be determined as though such plant were a pool plant. For purposes of such computation, receipts at such nonpool plant from a pool plant or an other order plant shall be assigned to the utilization at which classified at the pool plant or other order plant and transfers from such nonpool plant to a pool plant or an other order plant shall be classified as Class II milk if allocated to such class at the pool plant or other order plant and be valued at the uniform price of the respective order if so allocated to Class I milk. There shall be included in the obligation so computed a charge in the amount specified in § 1045.60(e) and a credit in an amount specified in § 1045.72(b)(2) with respect to receipts from an unregulated supply plant, unless an obligation with respect to such plant is computed as specified below in this subparagraph.

(ii) If the operator of the partially regulated distributing plant so requests, and provides with his reports pursuant to §§ 1045.30(b) and 1045.31 similar reports with respect to the operations of any other nonpool plant which serves as a supply plant for such partially regulated distributing plant by shipments to such plant during the month equivalent to the requirements of § 1045.10(b), with agreement of the operator of such plant that the market administrator may examine the books and records of such plant for purposes of verification of such reports, there will be added the amount of the obligation computed at such nonpool supply plant in the same manner and subject to the same conditions as for the partially regulated distributing plant.

(2) From this obligation there will be deducted the sum of (i) the gross pay-

ments made by such handler for Grade A milk received during the month from dairy farmers at such plant and like payments made by the operator of a supply plant(s) included in the computations pursuant to subparagraph (1) of this paragraph, and (ii) any payments to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant.

(b) An amount computed as follows:

(1) Determine the respective amounts of skim milk and butterfat disposed of as Class I milk on routes in the marketing area;

(2) Deduct (except that deducted under a similar provision of another order issued pursuant to the Act) the respective amounts of skim milk and butterfat received as Class I milk at the partially regulated distributing plant from pool plants and other order plants;

(3) Combine the amounts of skim milk and butterfat remaining into one total and determine the weighted average butterfat content; and

(4) From the value of such milk at the Class I price applicable at the location of the nonpool plant, subtract its value at the uniform price pursuant to § 1045.62 at the same location or at the Class II price, whichever is higher.

PART 1051—MILK IN MADISON, WISCONSIN, MARKETING AREA

1. Section 1051.7 is revised to read as follows:

§ 1051.7 Producer.

"Producer" means any person, other than a producer-handler as defined in any order (including this part) issued pursuant to the Act or a dairy farmer whose milk is received at a plant of a state educational institution during the month, who produces milk in compliance with the Grade A inspection requirements of a duly constituted health authority, which milk is received at a pool plant.

2. Section 1051.10 is revised to read as follows:

§ 1051.10 Fluid milk plant.

"Fluid milk plant" means:

(a) A pool plant, or

(b) A partially regulated distributing plant.

3. Section 1051.12 is revised to read as follows:

§ 1051.12 Nonpool plant.

"Nonpool plant" means any milk receiving, manufacturing or processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant and from which fluid milk products labeled Grade A in consumer-type packages or dispenser units are distributed on routes in the marketing area during the month.

(d) "Unregulated supply plant" means a nonpool plant that is a supply plant and is neither an other order plant nor a producer-handler plant.

4. In § 1051.13, "or" is deleted from the end of paragraph (b), a comma is substituted for the period at the end of paragraph (c), and new paragraphs (d) and (e) are added to read as follows:

§ 1051.13 Handler.

* * * * *

(d) Any person in his capacity as the operator of an other order plant that is either a distributing plant or a supply plant, or

(e) A producer-handler.

5. In § 1051.32, additional paragraphs (m), (n) and (o) are added and read as follows:

§ 1051.32 Duties.

* * * * *

(m) Whenever required for purpose of allocating receipts from other order plants pursuant to § 1051.46(a)(8) and the corresponding step of § 1051.46(b), the market administrator shall estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose;

(n) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products from an other order plant, the classification to which such receipts are allocated pursuant to § 1051.46 pursuant to such report, and thereafter any change in such allocation required to correct errors disclosed in verification of such report; and

(o) Furnish to each handler operating a pool plant who has shipped fluid milk products to an other order plant, the classification to which the skim milk and butterfat in such fluid milk products were allocated by the market administrator of the other order on the basis of the report of the receiving handler; and, as necessary, any changes in such classification arising in the verification of such report.

6. The introductory text of § 1051.35 is revised to read as follows:

§ 1051.35 Report of receipts and utilization.

On or before the 7th day after the end of each month, each handler pursuant to § 1051.13 (a) and (b) shall report

to the market administrator for such month, reporting separately for each fluid milk plant, in detail and on forms prescribed by the market administrator:

7. Section 1051.36 is revised to read as follows:

§ 1051.36 Other reports.

* * * * *

(c) Each handler pursuant to § 1051.13 (a), (b) and (c) shall report to the market administrator in detail and on forms prescribed by the market administrator on or before the 20th day after the end of the month his producer payroll for such month which shall show for each producer:

(1) His identity;

(2) The quantity of milk received from such producer and the number of days, if less than the entire month, on which milk was received from such producer;

(3) The average butterfat content of such milk; and

(4) The net amount of such handler's payment, together with the price paid and the amount and nature of any deductions.

8. Section 1051.41(b)(6) is revised to read as follows:

§ 1051.41 Classes of utilization.

* * * * *

(b) * * *

(6) Skim milk and butterfat, respectively (except in milk diverted to a nonpool plant pursuant to § 1051.15), in shrinkage but not in excess of:

(i) 2.0 percent of producer milk (except that received from a handler pursuant to § 1051.13(c));

(ii) Plus 1.5 percent of producer milk received from a handler pursuant to § 1051.13(c): *Provided*, That if the handler receiving such producer milk files notice with the market administrator that he is purchasing such milk on the basis of farm weights, the applicable percentage pursuant to this subdivision shall be 2.0 percent;

(iii) Plus 1.5 percent of bulk fluid milk products from pool plants;

(iv) Plus 1.5 percent of fluid milk products in bulk from other order plants, exclusive of the quantity for which Class II utilization was requested by the operators of both plants;

(v) Plus 1.5 percent of fluid milk products in bulk from unregulated supply plants, exclusive of the quantity for which Class II utilization was requested by the handler; and

(vi) Less 1.5 percent of fluid milk products transferred in bulk to other plants; and

9. Section 1051.42 is revised to read as follows:

§ 1051.42 Shrinkage.

* * * * *

(b) * * *

(1) The net quantity of producer milk and other fluid milk products specified in § 1051.41(b)(6); and

(2) Other source milk exclusive of that specified in § 1051.41(b)(6).

10. Section 1051.44 is revised to read as follows:

§ 1051.44 Transfers.

Skim milk or butterfat in the form of a fluid milk product shall be classified:

(a) At the utilization indicated by the operators of both plants, otherwise as Class I milk, if transferred from a pool plant to another pool plant, subject in either event to the following conditions:

(1) The skim milk or butterfat so assigned to either class shall be limited to the amount thereof remaining in such class in the transferee plant after computations pursuant to § 1051.46(a)(8) and the corresponding step of § 1051.46(b);

(2) If the transferor plant received during the month other source milk to be allocated pursuant to § 1051.46(a)(3), the skim milk and butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor handler received during the month other source milk to be allocated pursuant to § 1051.46(a)(7) and (8) and the corresponding steps of § 1051.46(b), the skim milk and butterfat so transferred up to the total of such receipts shall not be classified as Class I milk to a greater extent than would be applicable to a like quantity of such other source milk received at the transferee plant;

(b) As Class I milk, if transferred from a pool plant to a producer-handler;

(c) As Class I milk, if transferred or diverted to a nonpool plant that is not an other order plant and is more than 150 miles, by the shortest highway distance as determined by the market administrator, from the nearer of the City Halls of LaCrosse and Madison, Wisconsin;

(d) As Class I, milk if transferred or diverted in bulk to a nonpool plant that is neither an other order plant nor a producer-handler plant and is not more than 150 miles, by the shortest highway distance as determined by the market administrator, from the nearer of the City Halls of LaCrosse and Madison, Wisconsin, unless the requirements of subparagraphs (1) and (2) of this paragraph are met, in which case the skim milk and butterfat so transferred or diverted shall be classified in accordance with the assignment resulting from subparagraph (3) of this paragraph:

(1) The transferring or diverting handler claims classification pursuant to the assignment set forth in subparagraph (3) of this paragraph in his report submitted to the market administrator pursuant to § 1051.35 for the month within which such transaction occurred;

(2) The operator of such nonpool plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for the purpose of verification; and

(3) The skim milk and butterfat so transferred shall be classified on the basis of the following assignment of utilization at such nonpool plant in excess of receipts of packaged fluid milk products from all pool plants and other order plants:

(i) Any Class I utilization disposed of on routes in the marketing area shall be first assigned to the skim milk and butterfat in the fluid milk products so transferred or diverted from pool plants, next pro rata to receipts from other order plants and thereafter to receipts from dairy farmers who the market administrator determines constitute regular sources of supply of Grade A milk for such nonpool plant;

(ii) Any Class I utilization disposed of on routes in the marketing area of another order issued pursuant to the Act shall be first assigned to receipts from plants fully regulated by such order, next pro rata to receipts from pool plants and other order plants not regulated by such order, and thereafter to receipts from dairy farmers who the market administrator determines constitute regular sources of supply for such nonpool plant;

(iii) Class I utilization in excess of that assigned pursuant to subdivisions (i) and (ii) of this subparagraph shall be assigned first to remaining receipts from dairy farmers who the market administrator determines constitute the regular source of supply for such nonpool plant and Class I utilization in excess of such receipts shall be assigned pro rata to unassigned receipts at such nonpool plant from all pool and other order plants; and

(iv) To the extent that Class I utilization is not so assigned to it, the skim milk and butterfat so transferred shall be classified as Class II milk; and

(e) As follows, if transferred to an other order plant in excess of receipts from such plant in the same category as described in subparagraph (1), (2) or (3) of this paragraph:

(1) If transferred in packaged form, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated as a fluid milk product under the other order (including allocation under the conditions set forth in subparagraph (3) of this paragraph);

(3) If the operators of both the transferor and transferee plants so request in the reports of receipts and utilization filed with their respective market administrators, transfers in bulk form shall be classified as Class II to the extent of the Class II utilization (or comparable utilization under such other order) available for such assignment pursuant to the allocation provisions of the transferee order;

(4) If information concerning the classification to which allocated under the other order is not available to the market administrator for purposes of establishing classification pursuant to this paragraph, classification shall be as Class I, subject to adjustment when such information is available;

(5) For purposes of this paragraph, if the transferee order provides for more than two classes of utilization, milk allocated to a class consisting primarily of fluid milk products shall be classified as Class I, and milk allocated to other classes shall be classified as Class II; and

(6) If the form in which any fluid milk product is transferred to an other order plant is not defined as a fluid milk

product under such other order, classification shall be in accordance with the provisions of § 1051.41.

11. Section 1051.46 is revised to read as follows:

§ 1051.46 Allocation of skim milk and butterfat classified.

After making the computations pursuant to § 1051.45, the market administrator shall determine the classification of producer milk received at each pool plant each month as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class II the pounds of skim milk classified as Class II pursuant to § 1051.41(b)(6);

(2) Subtract from the remaining pounds of skim milk in each class the pounds of skim milk in fluid milk products received in packaged form from other order plants as follows:

(i) From Class II milk, the lesser of the pounds remaining or two percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(3) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class II, the pounds of skim milk in each of the following:

(i) Other source milk in a form other than that of a fluid milk product;

(ii) Receipts of fluid milk products for which Grade A certification is not established, or which are from unidentified sources; and

(iii) Receipts of fluid milk products from a producer-handler, as defined under this or any other Federal order;

(4) Subtract, in the order specified below, from the pounds of skim milk remaining in Class II:

(i) The pounds of skim milk in receipts of fluid milk products from unregulated supply plants for which the handler requests Class II utilization, but not in excess of the pounds of skim milk remaining in Class II;

(ii) The pounds of skim milk remaining in receipts of fluid milk products from unregulated supply plants which are in excess of the pounds of skim milk determined as follows:

(*a*) Multiply the pounds of skim milk remaining in Class I milk at all pool plants of the handler by 1.25;

(*b*) Subtract from the result the sum of the pounds of skim milk at all such plants in producer milk, in receipts from other pool handlers and in receipts in bulk from other order plants; and

(*c*) (*1*) Multiply any resulting plus quantity by the percentage that receipts of skim milk in fluid milk products from unregulated supply plants remaining at this plant is of all such receipts remaining at all pool plants of such handler, after any deductions pursuant to subdivision (i) of this subparagraph.

(*2*) Should such computation result in a quantity to be subtracted from Class II which is in excess of the pounds of skim milk remaining in Class II, the pounds of skim milk in Class II shall be increased to the quantity to be subtracted and the pounds of skim milk in Class I shall be decreased a like amount. In such case the utilization of skim milk at other pool plant(s) of such handler shall be adjusted in the reverse direction by an identical amount in sequence beginning with the nearest other pool plant of such handler at which such adjustment can be made;

(iii) Receipts of fluid milk products in bulk from an other order plant in excess of similar transfers to such plant, if Class II utilization was requested by the operator of such plant and the handler;

(5) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class II, the pounds of skim milk in inventory of fluid milk products on hand at the beginning of the month;

(6) Add to the remaining pounds of skim milk in Class II milk the pounds subtracted pursuant to subparagraph (1) of this paragraph;

(7) (i) Subtract from the pounds of skim milk remaining in each class, pro rata to the total pounds of skim milk remaining in each class in all pool plants of the receiving handler, the pounds of skim milk in receipts of fluid milk products from unregulated supply plants that were not subtracted pursuant to subparagraph (4) (i) or (ii) of this paragraph;

(ii) Should such proration result in the amount to be subtracted from any class exceeding the pounds of skim milk remaining in such class in the pool plant at which such skim milk was received, the pounds of skim milk in such class shall be increased to the amount to be subtracted and the pounds of skim milk in the other class shall be decreased a like amount. In such case the utilization of milk at other pool plant(s) of such handler shall be adjusted in the reverse direction by an identical amount in sequence beginning with the nearest other pool plant of such handler at which such adjustment can be made;

(8) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of fluid milk products in bulk from an other order plant, in excess in each case of similar transfers to the same plant, that were not subtracted pursuant to subparagraph (4) (iii) of this paragraph pursuant to the following procedure:

(i) Subject to the provisions of subdivisions (ii) and (iii) of this subparagraph, such subtraction shall be pro rata to whichever of the following represents the higher proportion of Class II milk:

(*a*) The estimated utilization of skim milk in each class, by all handlers, as announced for the month pursuant to § 1051.32(m); or

(*b*) The pounds of skim milk in each class remaining at all pool plants of the handler;

(ii) Should proration pursuant to subdivision (i) of this subparagraph result in the total pounds of skim milk to be subtracted from Class II at all pool plants of the handler exceeding the pounds of skim milk remaining in Class II at such plants, the pounds of such excess shall be subtracted from the pounds of skim milk remaining in Class I after such proration at the pool plants at which received;

(iii) Except as provided in subdivision (ii) of this subparagraph, should proration pursuant to either subdivision (i) or (ii) of this subparagraph result in the amount to be subtracted from either class exceeding the pounds of skim milk remaining in such class in the pool plant at which such skim milk was received, the pounds of skim milk in such class shall be increased to the amount to be subtracted and the pounds of skim milk in the other class shall be decreased a like amount. In such case the utilization of milk at other pool plant(s) of such handler shall be adjusted in the reverse direction by an identical amount in sequence beginning with the nearest other pool plant of such handler at which such adjustment can be made.

(9) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk received in fluid milk products from other pool plants according to the classification assigned pursuant to § 1051.44:

(10) If the pounds of skim milk remaining in both classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class II. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) Combine the amounts of skim milk and butterfat determined pursuant to paragraphs (a) and (b) of this section into one total for each class and determine the weighted average butterfat content of producer milk in each class.

§ 1051.47 [Revocation]

12. Section 1051.47 is revoked.

13. Section 1051.53 is revised to read as follows:

§ 1051.53 Location differentials to handlers.

(a) The Class I price for producer milk and other source milk (for which a location adjustment is applicable) at a plant less than 70 miles from the Chicago City Hall shall be increased 4 cents and at a fluid milk plant 145 miles or more from the Chicago City Hall shall be decreased 2 cents for each 15 miles or fraction thereof that such plant is more than 130 miles from the Chicago City Hall, as determined by the market administrator: *Provided,* That the differential pursuant to this section shall be not more than 8 cents at a plant in the marketing area; and

(b) For the purpose of calculating location differentials, receipts of fluid milk products from pool plants shall be assigned any remainder of Class I milk at the transferee plant that is in excess of the sum of producer milk receipts at such plant and that assigned as Class I to receipts from other order plants and unregulated supply plants. Such assignment shall be made in sequence according to the location differential applicable

at each plant, beginning with the plant nearest the City Hall in Chicago, Illinois.

§ 1051.55 [Revocation]

14. Section 1051.55 is revoked.

15. Section 1051.60 is revised to read as follows:

§ 1051.60 Computation of the net pool obligation for each pool plant.

The net pool obligation for each pool plant during each month shall be a sum of money computed by the market administrator as follows:

(a) Multiply the quantity of producer milk in each class, as computed pursuant to § 1051.46(c), by the applicable class prices;

(b) Add the amount obtained from multiplying the overage deducted from each class pursuant to § 1051.46(a)(10) and the corresponding step of § 1051.46 (b) by the applicable class prices;

(c) Add the amount obtained from multiplying the difference between the Class II price for the preceding month and the Class I price for the current month by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1051.46(a)(5) and the corresponding step of § 1051.46(b);

(d) Add an amount equal to the difference between the Class I and Class II price values at the pool plant of the skim milk and butterfat subtracted from Class I pursuant to § 1051.46(a)(3) and the corresponding step of § 1051.46(b); and

(e) Add the value at the Class I price, adjusted for location of the nearest nonpool plant(s) from which an equivalent volume was received, of the skim milk and butterfat subtracted from Class I pursuant to § 1051.46(a)(7) and the corresponding step of § 1051.46(b).

16. Section 1051.61 (b), (c) and (d) is revised to read as follows:

§ 1051.61 Computation of aggregate value used to determine uniform prices.

* * * * *

(b) Add or subtract for each one-tenth percent that the average butterfat content of milk represented by the values included under paragraph (a) of this section is less or more, respectively, than 3.5 percent an amount computed by multiplying such difference by the butterfat differential pursuant to § 1051.71 and multiplying the result by the total hundredweight of such milk;

(c) Subtract an amount equal to the sum of the location differential additions to be made pursuant to § 1051.72;

(d) Add an amount equal to the sum of the location differential deductions to be made pursuant to § 1051.72; and

17. Section 1051.62 is revised to read as follows:

§ 1051.62 Computation of uniform price.

For each month, the market administrator shall compute a uniform price as follows:

(a) Divide the aggregate value computed pursuant to § 1051.61 by the sum of the following:

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1051.60(e); and

(b) Subtract not less than four nor more than five cents from the price computed pursuant to paragraph (a) of this section.

§ 1051.63 [Amendment]

18. In § 1051.63(d), "all" is deleted and "producer" is substituted therefor.

19. Section 1051.64 is revised to read as follows:

§ 1051.64 Obligations of handler operating a partially regulated distributing plant.

Each handler who operates a partially regulated distributing plant shall pay to the market administrator for the producer-settlement fund on or before the 25th day after the end of the month either of the amounts (at the handler's election) calculated pursuant to paragraph (a) or (b) of this section. If the handler fails to report pursuant to § 1051.35 the information necessary to compute the amount specified in paragraph (a), he shall pay the amount computed pursuant to paragraph (b) of this section:

(a) An amount computed as follows:

(1) (i) The obligation that would have been computed pursuant to § 1051.60 at such plant shall be determined as though such plant were a pool plant. For purposes of such computation, receipts at such nonpool plant from a pool plant or an other order plant shall be assigned to the utilization at which classified at the pool plant or other order plant and transfers from such nonpool plant to a pool plant or an other order plant shall be classified as Class II milk if allocated to such class at the pool plant or other order plant and be valued at the uniform price of the respective order if so allocated to Class I milk. There shall be included in the obligation so computed a charge in the amount specified in § 1051.60(e) and a credit in the amount specified in § 1051.74(b)(2) with respect to receipts from an unregulated supply plant, unless an obligation with respect to such plant is computed as specified below in this subparagraph.

(ii) If the operator of the partially regulated distributing plant so requests, and provides with his reports pursuant to § 1051.35 a similar report with respect to the operations of any other nonpool plant which serves as a supply plant for such partially regulated distributing plant by shipments to such plant during the month equivalent to the requirements of § 1051.11(b), with agreement of the operator of such plant that the market administrator may examine the books and records of such plant for purposes of verification of such reports, there will be added the amount of the obligation computed at such nonpool supply plant in the same manner and subject to the same conditions as for the partially regulated distributing plant.

(2) From this obligation there will be deducted the sum of (i) the gross payments made by such handler for Grade A milk received during the month from dairy farmers at such plant and like payments made by the operator of a supply plant(s) included in the computations pursuant to subparagraph (1) of this paragraph, and (ii) any payments to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant.

(b) An amount computed as follows:

(1) Determine the respective amounts of skim milk and butterfat disposed of as Class I milk on routes in the marketing area;

(2) Deduct (except that deducted under a similar provision of another order issued pursuant to the Act) the respective amounts of skim milk and butterfat received as Class I milk at the partially regulated distributing plant from pool plants and other order plants;

(3) Combine the amounts of skim milk and butterfat remaining into one total and determine the weighted average butterfat content; and

(4) From the value of such milk at the Class I price applicable at the location of the nonpool plant, subtract its value at the uniform price pursuant to § 1051.62 at the same location or at the Class II price, whichever is higher.

20. Section 1051.72 is revised to read as follows:

§ 1051.72 Location differentials to producers and on nonpool milk.

* * * * *

(c) For purposes of computations pursuant to §§ 1051.74 and 1051.75, the uniform price shall be adjusted at the rates set forth in § 1051.53 applicable at the location of the nonpool plant from which the milk was received.

21. Section 1051.74 is revised to read as follows:

§ 1051.74 Payments to the producer-settlement fund.

On or before the 12th day after the end of the month, each handler shall pay to the market administrator the amount, if any, by which the total amounts specified in paragraph (a) of this section exceed the amounts specified in paragraph (b) of this section:

(a) The net pool obligation computed pursuant to § 1051.60 for such handler;

(b) The sum of:

(1) The value of such handler's producer milk at the applicable uniform prices specified in § 1051.70; and

(2) The value at the uniform price(s) applicable at the location of the plant(s), from which received (not to be less than the value at the Class II price) with respect to other source milk for which a value is computed pursuant to § 1051.60 (e).

22. Section 1051.75 is revised to read as follows:

§ 1051.75 Payments from the producer-settlement fund.

On or before the 13th day after the end of each month, the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1051.74(b) exceeds the amount computed pursuant to § 1051.60.

23. Section 1051.78 is revised to read as follows:

§ 1051.78 Expense of administration.

As his pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 15th day after the end of the month 4 cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect to (a) producer milk (including such handler's own production), (b) other source milk allocated to Class I pursuant to § 1051.46(a) (3) and (7) and the corresponding steps of § 1051.46 (b), and (c) Class I milk disposed of in the marketing area from a partially regulated distributing plant that exceeds the hundredweight of Class I milk received during the month at such plant from pool plants and other order plants.

PART 1061—MILK IN ST. JOSEPH, MISSOURI, MARKETING AREA

1. Section 1061.7 is revised to read as follows:

§ 1061.7 Producer.

"Producer" means any person, other than a producer-handler as defined in any order (including this part) issued pursuant to the Act, or a person who is a producer on the same milk under the terms of another order issued pursuant to the Act, who produces milk in compliance with the Grade A inspection requirements of a duly constituted health authority, and whose milk is (a) received at a pool plant, or (b) diverted as producer milk pursuant to § 1061.14.

2. In § 1061.8, paragraph (a) is revised and paragraphs (d) and (e) are added to read as follows:

§ 1061.8 Handler.

* * * * *

(a) Any person in his capacity as the operator of a pool plant;

* * * * *

(d) Any person who operates a partially regulated distributing plant; and

(e) A producer-handler, any person who operates a supply plant which is not a pool plant, or any person who operates another order plant described in § 1061.62.

3. Section 1061.13 is revised to read as follows:

§ 1061.13 Nonpool plant.

"Nonpool plant" means any milk receiving, manufacturing or processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant, from which fluid milk products derived from approved milk are distributed on routes in the marketing area in consumer-type packages or dispenser units during the month.

(d) "Unregulated supply plant" means a nonpool plant from which fluid milk products derived from approved milk are moved during the month to a pool plant qualified pursuant to § 1061.12 and which is not an other order plant nor a producer-handler plant.

4. In § 1061.22, additional paragraphs (l), (m), and (n) are added and read as follows:

§ 1061.22 Duties.

* * * * *

(l) Whenever required for purpose of allocating receipts from other order plants pursuant to § 1061.46(a)(8) and the corresponding step of § 1061.46(b), the market administrator shall estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose;

(m) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products from an other order plant, the classification to which such receipts are allocated pursuant to § 1061.46 pursuant to such report, and thereafter any change in such allocation required to correct errors disclosed in verification of such report; and

(n) Furnish to each handler operating a pool plant who has shipped fluid milk products to an other order plant, the classification to which the skim milk and butterfat in such fluid milk products were allocated by the market administrator of the other order on the basis of the report of the receiving handler; and, as necessary, any changes in such classification arising in the verification of such report.

5. In § 1061.30, paragraph (e) is added to read as follows:

§ 1061.30 Reports of receipts and utilization.

* * * * *

(e) Each handler specified in § 1061.8 (d) who operates a partially regulated distributing plant shall report as required in paragraphs (a) through (d) of

this section, except that receipts of Grade A milk from dairy farmers shall be reported in lieu of receipts from producers.

6. Section 1061.32 is revised to read as follows:

§ 1061.32 Other reports.

(a) Each producer-handler shall make reports to the market administrator at such time and in such manner as the market administrator shall request.

(b) Each handler who causes producer milk to be diverted to any plant shall report, prior to such diversion, to the market administrator and to the cooperative association of which such producer is a member, his intention to divert such milk, the proposed date or dates of such diversion and the plant to which such milk is to be diverted.

7. Section 1061.41(b)(6) is revised to read as follows:

§ 1061.41 Classes of utilization.

* * * * *

(b) * * *

(6) In actual shrinkage of skim milk and butterfat, respectively, allocated pursuant to § 1061.42(b)(1) but not in excess of:

(i) Two percent of milk received at a pool plant directly from producers; plus

(ii) Two percent of milk received from a cooperative association handler pursuant to § 1061.8(c), if the handler operating the pool plant files with the market administrator notice that he is purchasing such milk on the basis of farm weights determined by farm bulk tank calibrations; plus

(iii) One and one-half percent of milk received in bulk from pool plants of other handlers or received from cooperative associations pursuant to § 1061.8(c) unless two percent shrinkage is assigned pursuant to subdivision (ii) of this subparagraph; plus

(iv) One and one-half percent of receipts of fluid milk products in bulk from an other order plant, exclusive of the quantity for which Class II utilization was requested by the operator of such plant and the handler; plus

(v) One and one-half percent of receipts of fluid milk products in bulk from unregulated supply plants, exclusive of the quantity for which Class II utilization was requested by the handler; less

(vi) One and one-half percent of milk disposed of in bulk to other plants; and less

(vii) One and one-half percent of milk disposed of to plants by a cooperative association handler pursuant to § 1061.8(c) unless two percent shrinkage is assigned pursuant to subdivision (ii) of this subparagraph.

* * * * *

8. In § 1061.42(b), subparagraph (2) is revised to read as follows:

§ 1061.42 Shrinkage.

* * * * *

(b) * * *

(2) The pounds of skim milk and butterfat in other source milk received in the form of bulk fluid milk products, exclusive of that specified in § 1061.41(b)(6).

9. Section 1061.44 is revised to read as follows:

§ 1061.44 Transfers.

Skim milk or butterfat in the form of a fluid milk product shall be classified:

(a) At the utilization indicated by the operators of both plants or by the handler pursuant to § 1061.8(c) and the plant operator, otherwise as Class I milk, if transferred or diverted from a pool plant or from a handler pursuant to § 1061.8(c) to the pool plant of another handler, except as provided in paragraph (d) of this section, subject in either event to the following conditions:

(1) The skim milk or butterfat so assigned in either class shall be limited to the amount thereof remaining in such class in the transferee plant after computations pursuant to § 1061.46(a)(8) and the corresponding step of § 1061.46(b);

(2) If the transferor plant received during the month other source milk to be allocated pursuant to § 1061.46(a)(3) and the corresponding step of § 1061.46(b), the skim milk and butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor handler received during the month other source milk to be allocated pursuant to § 1061.46(a)(7) or (8) and the corresponding steps of § 1061.46(b), the skim milk and butterfat so transferred up to the total of such receipts shall not be classified as Class I milk to a greater extent than would be applicable to a like quantity of such other source milk received at the transferee plant;

(b) As Class I milk, if transferred from a pool plant to a producer-handler;

(c) As Class I milk if transferred or diverted in bulk to a nonpool plant that is neither an other order plant nor a producer-handler plant unless the requirements of subparagraphs (1) and (2) of this paragraph are met, in which case the skim milk and butterfat so transferred or diverted shall be classified in accordance with the assignment resulting from subparagraph (3) of this paragraph:

(1) The transferring or diverting handler claims classification pursuant to the assignment set forth in subparagraph (3) of this paragraph in his report submitted to the market administrator pursuant to § 1061.30 for the month within which such transaction occurred;

(2) The operator of such nonpool plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for the purpose of verification; and

(3) The skim milk and butterfat so transferred shall be classified on the basis of the following assignment of utilization at such nonpool plant in excess of receipts of packaged fluid milk products from all pool plants and other order plants:

(i) Any Class I utilization disposed of on routes in the marketing area shall be first assigned to the skim milk and butterfat in the fluid milk products so transferred or diverted from pool plants, next pro rata to receipts from other order plants and thereafter to receipts from dairy farmers who the market administrator determines constitute regular sources of supply of Grade A milk for such nonpool plant;

(ii) Any Class I utilization disposed of on routes in the marketing area of another order issued pursuant to the Act shall be first assigned to receipts from plants fully regulated by such order, next pro rata to receipts from pool plants and other order plants not regulated by such order, and thereafter to receipts from dairy farmers who the market administrator determines constitute regular sources of supply for such nonpool plant;

(iii) Class I utilization in excess of that assigned pursuant to subdivisions (i) and (ii) of this subparagraph shall be assigned first to remaining receipts from dairy farmers who the market administrator determines constitute the regular source of supply for such nonpool plant and Class I utilization in excess of such receipts shall be assigned pro rata to unassigned receipts at such nonpool plant from all pool and other order plants; and

(iv) To the extent that Class I utilization is not so assigned to it, the skim milk and butterfat so transferred shall be classified as Class II milk;

(d) If a specified utilization is not claimed by both handlers, subject to paragraph (a) of this section, skim milk and butterfat transferred to the pool plant of another handler by a cooperative association which is a handler pursuant to § 1061.8(c) shall be classified pro rata to the respective amounts remaining in each class for such month at the pool plant of the receiving handler after the computations pursuant to § 1061.46(a)(9) and the corresponding step of (b); and

(e) As follows, if transferred to an other order plant in excess of receipts from such plant in the same category as described in subparagraph (1), (2) or (3) of this paragraph:

(1) If transferred in packaged form, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated as a fluid milk product under the other order (including allocation under the conditions set forth in subparagraph (3) of this paragraph);

(3) If the operators of both the transferor and transferee plants so request in the reports of receipts and utilization filed with their respective market administrators, transfers in bulk form shall be classified as Class II to the extent of the Class II utilization (or comparable utilization under such other order) available for such assignment pursuant to the allocation provisions of the transferee order;

(4) If information concerning the classification to which allocated under the other order is not available to the market administrator for purposes of establishing classification pursuant to

this paragraph, classification shall be as Class I, subject to adjustment when such information is available;

(5) For purposes of this paragraph, if the transferee order provides for more than two classes of utilization, milk allocated to a class consisting primarily of fluid milk products shall be classified as Class I, and milk allocated to other classes shall be classified as Class II; and

(6) If the form in which any fluid milk product is transferred to an other order plant is not defined as a fluid milk product under such other order, classification shall be in accordance with the provisions of § 1061.41.

10. Section 1061.46 is revised to read as follows:

§ 1061.46 Allocation of skim milk and butterfat classified.

After making the computations pursuant to § 1061.45, the market administrator shall determine the classification of producer milk for each handler as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class II the pounds of skim milk classified as Class II pursuant to § 1061.41(b)(6);

(2) Subtract from the remaining pounds of skim milk in each class the pounds of skim milk in fluid milk products received in packaged form from other order plants as follows:

(i) From Class II milk, the lesser of the pounds remaining or two percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(3) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class II, the pounds of skim milk in each of the following:

(i) Other source milk in a form other than that of a fluid milk product;

(ii) Receipts of fluid milk products for which Grade A certification is not established, or which are from unidentified sources; and

(iii) Receipts of fluid milk products from a producer-handler, as defined under this or any other Federal order;

(4) Subtract, in the order specified below, from the pounds of skim milk remaining in Class II, but not in excess of such quantity, the pounds of skim milk in each of the following:

(i) Receipts of fluid milk products from an unregulated supply plant:

(*a*) For which the handler requests Class II utilization; or

(*b*) Which are in excess of the pounds of skim milk determined by multiplying the pounds of skim milk remaining in Class I milk by 1.25 and subtracting the sum of the pounds of skim milk in producer milk, receipts from other pool plants, from cooperative handlers pursuant to § 1061.8(c), and receipts in bulk from other order plants;

(ii) Receipts of fluid milk products in bulk from an other order plant in excess of similar transfers to such plant, if Class II utilization was requested by the operator of such plant and the handler;

(5) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class II, the pounds of skim milk in inventory of fluid milk products on hand at the beginning of the month;

(6) Add to the remaining pounds of skim milk in Class II milk the pounds subtracted pursuant to subparagraph (1) of this paragraph;

(7) Subtract from the pounds of skim milk remaining in each class, pro rata to such quantities, the pounds of skim milk in receipts of fluid milk products from unregulated supply plants which were not subtracted pursuant to subparagraph (4)(i) of this paragraph;

(8) Subtract from the pounds of skim milk remaining in each class, in the following order, the pounds of skim milk in receipts of fluid milk products in bulk from an other order plant(s), in excess in each case of similar transfers to the same plant, which were not subtracted pursuant to subparagraph (4)(ii) of this paragraph:

(i) In series beginning with Class II, the pounds determined by multiplying the pounds of such receipts by the larger of the percentage of estimated Class II utilization of skim milk announced for the month by the market administrator pursuant to § 1061.22(1) or the percentage that Class II utilization remaining is of the total remaining utilization of skim milk of the handler; and

(ii) From Class I, the remaining pounds of such receipts;

(9) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk received in fluid milk products from other handlers according to the classification assigned pursuant to § 1061.44(a);

(10) Subtract pro rata from the pounds of skim milk remaining in each class, the pounds of skim milk to be classified pursuant to § 1061.44(d);

(11) If the pounds of skim milk remaining in both classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class II. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) Combine the amounts of skim milk and butterfat determined pursuant to paragraphs (a) and (b) of this section into one total for each class and determine the weighted average butterfat content of producer milk in each class.

§ 1061.47 [Revocation]

11. Section 1061.47 is revoked.

12. Section 1061.53 is revised to read as follows:

§ 1061.53 Location adjustments to handlers.

(a) For milk received from producers at a pool plant located more than 50 miles by shortest highway distance as measured by the market administrator, from the nearer of the City Halls in St. Joseph, Missouri, and Sabetha, Kansas, and which is classified as Class I milk or assigned Class I location adjustment credit pursuant to paragraph (b) of this section and for other source milk to which a location adjustment is applicable, the price computed pursuant to § 1061.51(a) shall be reduced by 10 cents, plus 1.5 cents for each 10 miles or fraction thereof that such distance exceeds 60 miles;

(b) For purposes of calculating such adjustment, bulk transfers between pool plants shall be assigned to the Class I disposition at the transferee plant, in excess of the sum of receipts at such plant from producers and cooperative associations pursuant to § 1061.8(c), and the pounds assigned as Class I to receipts from other order plants and unregulated supply plants, such assignment to be made first to transferor plants at which no location adjustment credit is applicable and then in sequence beginning with the plant at which the least location adjustment would apply.

§ 1061.54 [Revocation]

13. Section 1061.54 is revoked.

14. Section 1061.61 is revised to read as follows:

§ 1061.61 Obligations of handler operating a partially regulated distributing plant.

Each handler who operates a partially regulated distributing plant shall pay to the market administrator for the producer-settlement fund on or before the 25th day after the end of the month either of the amounts (at the handler's election) calculated pursuant to paragraph (a) or (b) of this section. If the handler fails to report pursuant to §§ 1061.30(e) and 1061.31(b) the information necessary to compute the amount specified in paragraph (a) of this section, he shall pay the amount computed pursuant to paragraph (b) of this section:

(a) An amount computed as follows:

(1)(i) The obligation that would have been computed pursuant to § 1061.70 at such plant shall be determined as though such plant were a pool plant. For purposes of such computation, receipts at such nonpool plant from a pool plant or an other order plant shall be assigned to the utilization at which classified at the pool plant or other order plant and transfers from such nonpool plant to a pool plant or an other order plant shall be classified as Class II milk if allocated to such class at the pool plant or other order plant and be valued at the uniform price of the respective order if so allocated to Class I milk. There shall be included in the obligation so computed a charge in the amount specified in § 1061.70(e) and a credit in the amount specified in § 1061.82(b)(2) with respect to receipts from an unregulated supply plant, unless an obligation with respect to such plant is computed as specified below in this subparagraph.

(ii) If the operator of the partially regulated distributing plant so requests, and provides with his reports pursuant to §§ 1061.30(e) and 1061.31(b) similar reports with respect to the operations of any other nonpool plant which serves as

a supply plant for such partially regulated distributing plant by shipments to such plant during the month equivalent to the requirements of § 1061.12(b), with agreement of the operator of such plant that the market administrator may examine the books and records of such plant for purposes of verification of such reports, there will be added the amount of the obligation computed at such nonpool supply plant in the same manner and subject to the same conditions as for the partially regulated distributing plant.

(2) From this obligation there will be deducted the sum of (i) the gross payments made by such handler for Grade A milk received during the month from dairy farmers at such plant and like payments made by the operator of a supply plant(s) included in the computations pursuant to subparagraph (1) of this paragraph, and (ii) any payments to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant.

(b) An amount computed as follows:

(1) Determine the respective amounts of skim milk and butterfat disposed of as Class I milk on routes in the marketing area; and

(2) Deduct the respective amounts of skim milk and butterfat received as Class I milk at the partially regulated distributing plant from pool plants and other order plants, except that deducted under a similar provision of another order issued pursuant to the Act;

(3) Combine the amounts of skim milk and butterfat remaining into one total and determine the weighted average butterfat content; and

(4) From the value of such milk at the Class I price applicable at the location of the nonpool plant, subtract its value at the uniform price applicable at such location (not to be less than the Class II price).

15. Section 1061.70 is revised to read as follows:

§ 1061.70 Computation of the net pool obligation of each pool handler.

The net pool obligation of each pool handler during each month shall be a sum of money computed by the market administrator as follows:

(a) Multiply the quantity of producer milk in each class, as computed pursuant to § 1061.46(c), by the applicable class prices (adjusted pursuant to §§ 1061.52 and 1061.53);

(b) Add the amount obtained from multiplying the pounds of overage deducted from each class pursuant to § 1061.46(a)(11) and the corresponding step of § 1061.46(b) by the applicable class prices;

(c) Add the amount obtained by multiplying the difference between the Class II price for the preceding month and the Class I price for the current month by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1061.46(a)(5) and the corresponding step of § 1061.46(b);

(d) Add an amount equal to the difference between the value at the Class I price applicable at the pool plant and the value at the Class II price, with respect to skim milk and butterfat in other source milk subtracted from Class I pursuant to § 1061.46(a)(3) and the corresponding step of § 1061.46(b);

(e) Add an amount equal to the value at the Class I price, adjusted for location of the nearest nonpool plant(s) from which an equivalent weight was received, with respect to skim milk and butterfat subtracted from Class I pursuant to § 1061.46(a)(7) and the corresponding step of § 1061.46(b).

16. Section 1061.71 is revised to read as follows:

§ 1061.71 Computation of uniform prices.

For each month the market administrator shall compute the uniform price per hundredweight of milk received from producers as follows:

(a) Combine into one total the values computed pursuant to § 1061.70 for all handlers who filed the reports prescribed by § 1061.30 for the month and who made the payments pursuant to §§ 1061.80 and 1061.82 for the preceding month;

(b) Add an amount equal to the total value of the location differentials computed pursuant to § 1061.73;

(c) Subtract, if the average butterfat content of the milk specified in paragraph (e) of this section is more than 3.5 percent, or add, if such butterfat content is less than 3.5 percent, an amount computed by multiplying the amount by which the average butterfat content of such milk varies from 3.5 percent by the butterfat differential computed pursuant to § 1061.72 and multiplying the result by the total hundredweight of such milk;

(d) Add an amount equal to not less than one-half of the unobligated balance in the producer-settlement fund;

(e) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1061.70(e);

(f) Subtract not less than four cents nor more than five cents per hundredweight. The result shall be the "uniform price" for milk received from producers.

17. Section 1061.73 is revised to read as follows:

§ 1061.73 Location differentials to producers and on nonpool milk.

(a) In making payments to producers for milk received at a pool plant located more than 50 miles by the shortest highway distance, as determined by the market administrator, from the City Hall in either St. Joseph, Missouri, or Sabetha, Kansas, whichever is nearer, there shall be deducted 10 cents per hundredweight of milk for distances of more than 50 but not more than 60 miles, plus an additional one and one-half cents for each additional 10 miles or fraction thereof in excess of 60 miles.

(b) For purposes of computations pursuant to §§ 1061.82 and 1061.83 the uniform price shall be adjusted at the rates set forth in § 1061.53 applicable at the location of the nonpool plant from which the milk was received.

§ 1061.81 [Amendment]

18. In § 1061.81 the designations "1061.61 (a)(1) and (b)(1)" are changed to "1061.61 (a) and (b)".

19. Section 1061.82 is revised to read as follows:

§ 1061.82 Payments to the producer-settlement fund.

On or before the 14th day after the end of the month each handler shall pay to the market administrator the amount, if any, by which the total amounts specified in paragraph (a) of this section exceed the amounts specified in paragraph (b) of this section:

(a) The total of the net pool obligation computed pursuant to § 1061.70 for such handler; and

(b) The sum of:

(1) The value of such handler's producer milk at the applicable uniform prices specified in § 1061.80; and

(2) The value at the uniform price(s) applicable at the location of the plant(s) from which received (not to be less than the value at the Class II price) with respect to other source milk for which a value is computed pursuant to § 1061.70(e).

20. Section 1061.83 is revised to read as follows:

§ 1061.83 Payments out of the producer-settlement fund.

On or before the 14th day after the end of each month the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1061.82(b) exceeds the amount computed pursuant to § 1061.82(a). If at such time the balance in the producer-settlement fund is insufficient to make all payments pursuant to this section the market administrator shall reduce uniformly such payment and shall compute such payments as soon as the necessary funds are available.

21. Section 1061.86 is revised to read as follows:

§ 1061.86 Expense of administration.

As his pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 12th day after the end of the month five cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect to (a) producer milk received by a pool plant operator (including such handler's own production), (b) milk received from a cooperative association as a handler pursuant to § 1061.8(c), (c) producer milk of a cooperative association handler pursuant to § 1061.8 (b) and (c) except that transferred or diverted to a pool plant operator, (d) other source milk allocated to Class I pursuant to § 1061.46(a) (3) and (7) and the corresponding steps of § 1061.46 (b), and (e) Class I milk disposed of from a partially regulated distributing plant on routes in the marketing area that exceeds Class I milk received during the month at such plants from pool plants and other order plants.

PART 1062—MILK IN ST. LOUIS, MISSOURI, MARKETING AREA

1. Section 1062.7 is revised to read as follows:

§ 1062.7 Producer.

"Producer" means any person, other than a dairy farmer for other markets or a producer-handler as defined in any order (including this part) issued pursuant to the Act, who produces milk in compliance with the Grade A inspection requirements of a duly constituted health authority, and whose milk is (a) received at a pool plant, or (b) diverted as producer milk pursuant to § 1062.14.

§ 1062.10 [Amendment]

2. In § 1062.10 the references to "§ 1062.12(c)" are revised whenever they appear to "§ 1062.12(d)".

3. Section 1062.11 is revised to read as follows:

§ 1062.11 Nonpool plant.

"Nonpool plant" means any milk receiving, manufacturing or processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated city plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant, from which fluid milk products labeled Grade A in consumer-type packages or dispenser units are distributed on routes in the marketing area during the month.

(d) "Unregulated country plant" means a nonpool plant, other than a producer-handler plant or an other order plant, which supplies approved milk to a pool plant during the month.

4. Section 1062.12 is revised to read as follows:

§ 1062.12 Handler.

"Handler" means:

(a) Any person in his capacity as the operator of a pool plant;

(b) Any person who operates a partially regulated city plant;

(c) Any cooperative association with respect to milk from producers diverted for its account from a pool plant to a nonpool plant;

(d) Any cooperative association with respect to the milk of its members which is delivered from the farm to the pool plant of another handler in a tank truck owned and operated by, or under contract to such cooperative association, if the cooperative association, prior to assuming the function as the handler furnishes written notice to the market administrator and to the handler to whose plant the milk is delivered, that it will be the handler for the milk. The written notice shall specify the day on which and the period for which the cooperative association shall assume the function of handler. Milk so delivered shall be deemed to have been received by the cooperative association at the pool plant to which it is delivered; and

(e) A producer-handler, or any person who operates an other order plant described in § 1062.61.

5. Section 1068.14 is revised to read as follows:

§ 1062.14 Producer milk.

"Producer milk" means only that skim milk or butterfat contained in milk (a) received at a pool plant from producers, or from a cooperative association in its capacity as a handler pursuant to § 1062.12(d), or (b) diverted from a pool plant to a nonpool plant which is not a pool plant under the terms of another order issued pursuant to the Act:

(1) By a cooperative association in its capacity as a handler pursuant to § 1062.12(c) any number of days during the months of March through July or for a period not in excess of 16 days' production during each of the months of August through February; or

(2) By a handler who operates a pool plant any number of days during the months of March through July: *Provided,* That milk so diverted pursuant to subparagraphs (1) and (2) of this paragraph shall be deemed to have been received at the plant from which diverted, except that milk diverted from a pool city plant to a nonpool plant located more than 110 airline miles from the City Hall in St. Louis and which is located in the surplus disposal area designated in § 1062.43(c)(1) shall be deemed to have been received at a pool plant at the same location as the nonpool plant to which diverted.

§§ 1062.25–1062.27 [Redesignations]

6. The provisions contained in §§1062.20 through 1062.22 under centerhead "Market Administrator" are renumbered as §§ 1062.25 through 1062.27 and a new §1062.20 is added to read as follows:

§ 1062.20 Fluid milk product.

"Fluid milk product" means milk, skim milk, buttermilk, flavored milk, milk drinks (plain or flavored), concentrated milk, fortified milk or skim milk, reconstituted milk or skim milk, cream (sweet or sour) and mixtures of milk, skim milk or cream (except frozen dessert mixes, eggnog, aerated cream, sterilized products in hermetically sealed containers, and cultured sour mixtures to which cheese or another food substance other than a milk product has been added and which contain not more than 15 percent butterfat).

7. In § 1062.27, additional paragraphs (l), (m), and (n) are added and read as follows:

§ 1062.27 Duties.

* * * * *

(l) Whenever required for purposes of allocating receipts from other order plants pursuant to § 1062.45(a)(8) and the corresponding step of § 1062.45(b), the market administrator shall estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose;

(m) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products from an other order plant, the classification to which such receipts are allocated pursuant to § 1062.45 pursuant to such report, and thereafter any change in such allocation required to correct errors disclosed in verification of such report; and

(n) Furnish to each handler operating a pool plant who has shipped fluid milk products to an other order plant, the classification to which the skim milk and butterfat in such fluid milk products were allocated by the market administrator of the other order on the basis of the report of the receiving handler; and, as necessary, any changes in such classification arising in the verification of such report.

8. Section 1062.30 is revised to read as follows:

§ 1062.30 Reports of receipts and utilization.

(a) On or before the 7th day after the end of each month each handler for each of his pool plants, and each association in its capacity as a handler pursuant to § 1062.12 (c) and (d) shall report for such month to the market administrator in the detail and on forms prescribed by the market administrator;

(1) The quantities of skim milk and butterfat contained in:

(i) Producer milk;

(ii) Milk in the form of Class I products received from pool plants;

(iii) Other source milk;

(2) The quantities of skim milk and butterfat contained in producer milk diverted to nonpool plants pursuant to § 1062.14;

(3) The quantities of skim milk and butterfat contained in inventories of Class I products on hand at the beginning and end of the month;

(4) The utilization of all skim milk and butterfat required to be reported pursuant to this paragraph, including a separate statement of the disposition of Class I milk outside the marketing area;

(5) The name and address of each producer from whom milk was not received during the previous month, and the date on which milk was first received from such producer;

(6) The name and address of each producer who discontinues deliveries of milk, and the date on which milk was last received from such producer; and

(7) Such other information with respect to receipts and utilization of skim milk and butterfat as the market administrator may prescribe; and

(b) Each handler specified in § 1062.12 (b) who operates a partially regulated city plant shall report as required in paragraph (a) of this section, except that receipts in Grade A milk shall be re-

ported in lieu of those in producer milk; such report shall include a separate statement showing the respective amounts of skim milk and butterfat disposed of on routes in the marketing area as Class I milk.

9. Section 1062.31 is revised to read as follows:

§ 1062.31 Other reports.

Each producer-handler shall make reports to the market administrator at such time and in such manner as the market administrator shall request.

10. Section 1062.32 is revised to read as follows:

§ 1062.32 Reports of milk received from producers.

(a) On or before the 25th day of each month, each handler except a handler pursuant to § 1062.12(b), shall report to the market administrator, on forms approved by the market administrator his producer payroll, which shall show the total pounds of milk received from each producer during the first 15 days of such month;

(b) On or before the 20th day after the end of each month each handler, except a handler pursuant to § 1062.12 (b), shall report to the market administrator for such month on forms approved by the market administrator, his producer payroll, which shall show for each producer from whom milk was received:

(1) The total pounds and butterfat content of milk received from such producer;

(2) The price and the total amount paid for milk received from such producer, together with the amount and nature of any deduction; and

(3) The amount and nature of payments made pursuant to §§ 1062.80 and 1062.86.

(c) Each handler operating a partially regulated city plant who does not elect to make payments as required pursuant to § 1062.62(b) shall report to the market administrator on or before the 20th day after the end of the month for each dairy farmer from whom milk was received the same information as required in paragraph (b) (1) and (2) of this section.

11. Section 1062.41 is revised to read as follows:

§ 1062.41 Classes of utilization.

Subject to the conditions set forth in §§ 1062.42 and 1062.43, the classes of utilization shall be as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product (except that any product fortified with added solids shall be Class I in an amount equal only to the weight of an equal volume of a like unmodified product of the same butterfat content); and

(2) Not specifically accounted for as Class II milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Accounted for and used to produce any product other than those specified as Class I in paragraph (a)(1) of this section;

(2) In inventory of products designated as Class I milk in paragraph (a) of this section on hand at the end of the month;

(3) The weight of skim milk in fortified fluid milk products which is excepted from Class I pursuant to paragraph (a) (1) of this section;

(4) In shrinkage of skim milk and butterfat, respectively, but not to exceed the following:

(i) Two percent of milk received from dairy farmers exclusive of that diverted pursuant to § 1062.14; plus

(ii) One and one-half percent of milk received in bulk tank lots from pool plants of other handlers; plus

(iii) One and one-half percent of receipts of fluid milk products in bulk tank lots from other order plants, exclusive of the quantity for which Class II utilization was requested by the operators of such plants and the handler; plus

(iv) One and one-half percent of receipts of fluid milk products in bulk tank lots from unregulated country plants, exclusive of the quantity for which Class II utilization was requested by the handler; less

(v) One and one-half percent of milk disposed of in bulk tank lots to pool plants of other handlers and to nonpool plants (exclusive of milk diverted pursuant to § 1062.14); and

(5) In shrinkage of skim milk and butterfat, respectively, assigned pursuant to § 1062.46(b)(2).

12. Section 1062.43 is revised to read as follows:

§ 1062.43 Transfers.

Skim milk and butterfat transferred or diverted as any product designated in § 1062.20 from a pool plant or by a cooperative association in its capacity as a handler pursuant to § 1062.12 (c) and (d) shall be classified as follows:

(a) At the utilization indicated by both handlers, otherwise as Class I milk, if transferred to the pool plant of another handler, subject in either event to the following conditions:

(1) The skim milk or butterfat so assigned to either class shall be limited to the amount thereof remaining in such class in the transferee plant after computations pursuant to § 1062.45(a)(8) and the corresponding step of § 1062.45 (b);

(2) If the transferor plant received during the month other source milk to be allocated pursuant to § 1062.45(a)(3) and the corresponding step of § 1062.45 (b) the skim milk and butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk;

(3) If the transferor handler received during the month other source milk to be allocated pursuant to § 1062.45(a) (7) or (8) and the corresponding steps of § 1062.45(b), the skim milk and butterfat so transferred up to the total of such receipts shall not be classified as Class I milk to a greater extent than would be applicable to a like quantity of such other source milk received at the transferee plant; and

(4) If the transfer is by a cooperative association, the skim milk and butterfat so transferred shall be allocated pro rata to each class in the proportion remaining after the subtraction pursuant to § 1062.45(a)(8) and the corresponding step of § 1062.45(b);

(b) As Class I milk, if transferred to a producer-handler;

(c) As Class I milk (except that contained in cream which is moved to a nonpool plant pursuant to paragraph (f) of this section) if moved to a nonpool plant which is not an other order plant or the plant of a producer-handler unless the requirements of subparagraphs (1), (2) and (3) of this paragraph are met, in which case the skim milk and butterfat so transferred or diverted shall be classified in accordance with the assignment set forth in subparagraph (4) of this paragraph:

(1) The transferee plant is located within 110 airline miles from the City Hall in St. Louis, Missouri, or in the State of Missouri south of the Missouri River or in Fulton County, Arkansas;

(2) The transferor-handler claims classification of such skim milk and butterfat in Class II in his report submitted pursuant to § 1062.30;

(3) The operator of the transferee plant maintains books and records showing the utilization of all skim milk and butterfat received in any form at such plant, which are made available if requested by the market administrator for the purpose of verification;

(4) The skim milk and butterfat so transferred shall be classified on the basis of the following assignment of utilization at such nonpool plant in excess of receipts of packaged fluid milk products from all pool plants and other order plants:

(i) Any Class I utilization disposed of on routes in the marketing area shall be first assigned to the skim milk and butterfat in the fluid milk products so transferred or diverted from pool plants, next pro rata to receipts from other order plants and thereafter to receipts from dairy farmers who the market administrator determines constitute regular sources of supply of Grade A milk for such nonpool plant;

(ii) Any Class I utilization disposed of on routes in the marketing area of another order issued pursuant to the Act shall be first assigned to receipts from plants fully regulated by such order, next pro rata to receipts from pool plants and other order plants not regulated by such order, and thereafter to receipts from dairy farmers who the market administrator determines constitute regular sources of supply of Grade A milk for such nonpool plant;

(iii) Class I utilization in excess of that assigned pursuant to subdivisions (i) and (ii) of this subparagraph shall be assigned first to remaining receipts from dairy farmers who the market administrator determines constitute the regular source of supply of Grade A milk for such nonpool plant and Class I utilization in excess of such receipts shall be assigned pro rata to unassigned receipts at such nonpool plant from all pool and other order plants; and

(d) As Class I milk (except that contained in cream which is moved to a nonpool plant pursuant to paragraph

(f) of this section) if moved in bulk to a nonpool plant that is neither an other order plant nor the plant of a producer-handler and which is not located within that portion of the State of Missouri south of the Missouri River nor within Fulton County, Arkansas, and is more than 110 airline miles from the City Hall in St. Louis, Missouri;

(e) As follows, if transferred to an other order plant in excess of receipts from such plant in the same category as described in subparagraph (1), (2) or (3) of this paragraph:

(1) If transferred in packaged form, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated as a fluid milk product under the other order (including allocation under the conditions set forth in subparagraph (3) of this paragraph);

(3) If the operators of both the transferor and transferee plants so request in the reports of receipts and utilization filed with their respective market administrators, transfers in bulk form shall be classified as Class II to the extent of the Class II utilization (or comparable utilization under such other order) available for such assignment pursuant to the allocation provisions of the transferee order;

(4) If information concerning the classification to which allocated under the other order is not available to the market administrator for purposes of establishing classification pursuant to this paragraph, classification shall be as Class I, subject to adjustment when such information is available;

(5) For purposes of this paragraph, if the transferee order provides for more than two classes of utilization, milk allocated to a class consisting primarily of fluid milk products shall be classified as Class I, and milk allocated to other classes shall be classified as Class II; and

(6) If the form in which any fluid milk product is transferred to an other order plant is not defined as a fluid milk product under such other order, classification shall be in accordance with the provisions of § 1062.41; and

(f) As Class II milk if moved in fluid form as cream to a nonpool plant which is neither an other order plant nor a producer-handler plant and which is not located within the area specified in paragraph (c)(1) of this section; if the following conditions are met:

(1) The transferor handler establishes that such cream was transferred without Grade A certification;

(2) The shipment was invoiced accordingly; and

(3) The market administrator was given sufficient notice to allow him to verify the conditions of shipment.

§ 1062.44 [Amendment]

12a. The section references contained in § 1062.44 are revised as follows: "§ 1062.12(c)" is revised to read "§ 1062.12(d)" and "§ 1062.12(b)" is revised to read "§ 1062.12(c)".

13. Section 1062.45 is revised to read as follows:

§ 1062.45 Allocation of skim milk and butterfat classified.

After making the computations pursuant to § 1062.44, the market administrator shall determine the classification of producer milk for each handler as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class II the pounds of skim milk classified as Class II pursuant to § 1062.41(b)(4);

(2) Subtract from the remaining pounds of skim milk in each class the pounds of skim milk in fluid milk products received in packaged form from other order plants as follows:

(i) From Class II milk, the lesser of the pounds remaining or two percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(3) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class II, the pounds of skim milk in each of the following:

(i) Other source milk in a form other than that of a fluid milk product;

(ii) Receipts of fluid milk products for which Grade A certification is not established, or which are from unidentified sources; and

(iii) Receipts of fluid milk products from a producer-handler, as defined under this or any other Federal order;

(4) Subtract, in the order specified below, from the pounds of skim milk remaining in Class II but not in excess of such quantity:

(i) Receipts of fluid milk products from an unregulated country plant and from dairy farmers for other markets:

(*a*) For which the handler requests Class II utilization; or

(*b*) Which are in excess of the pounds of skim milk determined by multiplying the pounds of skim milk remaining in Class I milk by 1.25 and subtracting the sum of the pounds of skim milk in producer milk, receipts from other pool handlers, and receipts in bulk from other order plants;

(ii) Receipts of fluid milk products in bulk from an other order plant in excess of similar transfers to such plant, if Class II utilization was requested by the operator of such plant and the handler;

(5) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class II, the pounds of skim milk in inventory of fluid milk products on hand at the beginning of the month;

(6) Add to the remaining pounds of skim milk in Class II milk the pounds subtracted pursuant to subparagraph (1) of this paragraph;

(7) Subtract from the pounds of skim milk remaining in each class, pro rata to such quantities, the pounds of skim milk in receipts of fluid milk products from unregulated country plants and from dairy farmers for other markets which were not subtracted pursuant to subparagraph (4)(i) of this paragraph;

(8) Subtract from the pounds of skim milk remaining in each class, in the following order, the pounds of skim milk in receipts of fluid milk products in bulk from an other order plant(s), in excess in each case of similar transfers to the same plant, which were not subtracted pursuant to subparagraph (4)(ii) of this paragraph:

(i) In series beginning with Class II, the pounds determined by multiplying the pounds of such receipts by the larger of the percentage of estimated Class II utilization of skim milk announced for the month by the market administrator pursuant to § 1062.27(1) or the percentage that Class II utilization remaining is of the total remaining utilization of skim milk of the handler; and

(ii) From Class I, the remaining pounds of such receipts;

(9) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk received in fluid milk products from pool plants and cooperative associations according to the classification assigned pursuant to § 1062.43(a); and

(10) If the pounds of skim milk remaining in both classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class II. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) Combine the amounts of skim milk and butterfat determined pursuant to paragraphs (a) and (b) of this section into one total for each class and determine the weighted average butterfat content of producer milk in each class.

14. The provision formerly contained in § 1062.46 is now included in § 1062.45 (c) and § 1062.46 is deleted. A new § 1062.46 which reads as follows is added:

§ 1062.46 Shrinkage.

The market administrator shall allocate shrinkage over a handler's receipts as follows:

(a) Compute the total shrinkage of skim milk and butterfat, respectively, for each handler; and

(b) Prorate the resulting amount between:

(1) Skim milk and butterfat in amounts respectively used in the computations pursuant to § 1062.41(b)(4); and (2) skim milk and butterfat in other source milk, exclusive of that specified in § 1062.41(b)(4).

15. Section 1062.52 is revised to read as follows:

§ 1062.52 Location adjustments to handlers.

(a) For producer milk which is received at a pool plant located more than 30 airline miles from the City Hall in St. Louis, Missouri, which is classified as Class I milk, and for other source milk for which a location adjustment credit is applicable, the price specified in § 1062.51(a) shall be reduced at the rate set forth in the following schedule:

Distance (miles):	*Rate per hundredweight (cents)*
More than 30 but not more than 40 miles	16
For each additional 10 miles or fraction thereof an additional	1

(b) For purposes of calculating such adjustment, transfers between pool plants shall be assigned Class I disposition at the transferee plant, in excess of the sum of 95 percent of the receipts at such plant from producers and cooperative associations pursuant to §1062.12(d), and the volume assigned as Class I to receipts from other order plants and unregulated country plants, such assignment to be made first to transferor plants at which no location adjustment credit is applicable and then in sequence beginning with the plant at which the least location adjustment would apply.

§ 1062.53 [Amendment]

15a. In the introductory text preceding paragraph (a) of § 1062.53 the reference to "§ 1062.46" is changed to "§ 1062.45 (c)".

§ 1062.55 [Revocation]

16. Section 1062.55 is revoked.

17. Section 1062.62 is revised to read as follows:

§ 1062.62 Obligations of handler operating a partially regulated city plant.

Each handler who operates a partially regulated city plant shall pay to the market administrator for the producer-settlement fund on or before the 25th day after the end of the month either of the amounts (at the handler's election) calculated pursuant to paragraph (a) or (b) of this section. If the handler fails to report pursuant to §§ 1062.30(b) and 1062.32(c) the information necessary to compute the amount specified in paragraph (a) of this section, he shall pay the amount computed pursuant to paragraph (b) of this section:

(a) An amount computed as follows:

(1) (i) The obligation that would have been computed pursuant to § 1062.70 at such plant shall be determined as though such plant were a pool plant. For purposes of such computation, receipts at such nonpool plant from a pool plant or an other order plant shall be assigned to the utilization at which classified at the pool plant or other order plant and transfers from such nonpool plant to a pool plant or an other order plant shall be classified as Class II milk if allocated to such class at the pool plant or other order plant and be valued at the weighted average price of the respective order if so allocated to Class I milk. There shall be included in the obligation so computed a charge in the amount specified in § 1062.70(e) and a credit in the amount specified in § 1062.84(b)(2) with respect to receipts from an unregulated supply plant, unless an obligation with respect to such plant is computed as specified below in this subparagraph.

(ii) If the operator of the partially regulated city plant so requests, and provided with his reports pursuant to §§ 1062.30(b) and 1062.32(c) similar reports with respect to the operations of any other nonpool plant which serves as a country plant for such partially regulated city plant by shipments to such plant during the month equivalent to the requirements of § 1062.10(b), with agreement of the operator of such plant that the market administrator may examine the books and records of such plant for purposes of verification of such reports, there will be added the amount of the obligation computed at such nonpool country plant in the same manner and subject to the same conditions as for the partially regulated city plant.

(2) From this obligation there will be deducted the sum of (i) the gross payments made by such handler for Grade A milk received during the month from dairy farmers at such plant and like payments made by the operator of a country plant(s) included in the computations pursuant to subparagraph (1) of this paragraph, and (ii) any payments to the producer-settlement fund of another order under which such plant is also a partially regulated city plant.

(b) An amount computed as follows:

(1) Determine the respective amounts of skim milk and butterfat disposed of as Class I milk on routes in the marketing area;

(2) Deduct the respective amounts of skim milk and butterfat received as Class I milk at the partially regulated city plant from pool plants and other order plants, except that deducted under a similar provision of another order issued pursuant to the Act;

(3) Combine the amounts of skim milk and butterfat remaining into one total and determine the weighted average butterfat content: and

(4) From the value of such milk at the Class I price applicable at the location of the nonpool plant, subtract its value at the weighted average price applicable at such location or the Class II price, whichever is higher.

18. Section 1062.70 is revised to read as follows:

§ 1062.70 Computation of the net pool obligation of each pool handler.

The net pool obligation of each pool handler during each month shall be a sum of money computed by the market administrator as follows:

(a) Multiply the quantity of producer milk in each class, as computed pursuant to § 1062.45(c), by the applicable class prices (adjusted pursuant to §§ 1062.52 and 1062.53);

(b) Add the amount obtained from multiplying the pounds of overage deducted from each class pursuant to § 1062.45(a)(10) and the corresponding step of § 1062.45(b) by the applicable class prices;

(c) Add the amount obtained from multiplying the difference between the Class II price for the preceding month and the Class I price for the current month by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1062.45(a)(5) and the corresponding step of § 1062.45(b);

(d) Add an amount equal to the difference between the value at the Class I price applicable at the pool plant and the value at the Class II price, with respect to skim milk and butterfat in other source milk subtracted from Class I pursuant to § 1062.45(a)(3) and the corresponding step of § 1062.45(b);

(e) Add an amount equal to the value at the Class I price, adjusted for location of the nearest nonpool plant(s) from which an equivalent volume of skim milk and butterfat was received from an unregulated country plant and which was subtracted from Class I pursuant to § 1062.45(a)(7) and the corresponding step of § 1062.45(b). With respect to skim milk and butterfat which is received from dairy farmers for other markets and which is subtracted from Class I pursuant to § 1062.15(a)(7) and the corresponding step of § 1062.45(b), add an amount equal to its value at the Class I price applicable at the pool plant.

19. Section 1062.71 is revised to read as follows:

§ 1062.71 Computation of uniform prices.

For each month the market administrator shall compute the uniform price per hundredweight of milk received from producers as follows:

(a) Combine into one total the values computed pursuant to § 1062.70 for all handlers who filed the reports prescribed by § 1062.30 for the month and who made the payments pursuant to § 1062.80 and § 1062.84 for the preceding month;

(b) Add an amount equal to the total value of the location differentials computed pursuant to § 1062.82;

(c) Subtract, if the average butterfat content of the milk specified in paragraph (e) of this section is more than 3.5 percent, or add, if such butterfat content is less than 3.5 percent, an amount computed by multiplying the amount by which the average butterfat content of such milk varies from 3.5 percent by the butterfat differential computed pursuant to § 1062.81 and multiplying the result by the total hundredweight of such milk;

(d) Add an amount equal to one-half of the unobligated balance in the producer-settlement fund;

(e) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1062.70(e);

(f) Subtract not less than four cents nor more than five cents per hundredweight. The result shall be the "weighted average price", and, except for the months specified below, shall be the "uniform price" for milk received from producers;

(g) For the months specified in paragraphs (h) and (i) of this section, subtract from the amount resulting from the computations pursuant to paragraphs (a) through (d) of this section an amount computed by multiplying the hundredweight of milk specified in paragraph (e)(2) of this section by the weighted average price;

(h) Subtract during each of the months of April, May, June and July an amount equal to 10 cents per hundredweight on the total amount of producer

milk included in these computations, to be retained in the producer-settlement fund and disbursed according to the provisions of paragraph (i) of this section;

(i) Add during each of the months of October, November and December one-third of the total amount subtracted pursuant to paragraph (h) of this section;

(j) Divide the resulting sum by the total hundredweight of producer milk included in these computations; and

(k) Subtract not less than four cents nor more than five cents per hundredweight. The result shall be the "uniform price" for milk received from producers.

20. Section 1062.82 is revised to read as follows:

§ 1062.82 Location differentials to producers and on nonpool milk.

(a) The uniform price for producer milk received at a pool plant shall be reduced according to the location of the pool plant at the rates set forth in § 1062.52; and

(b) For purposes of computations pursuant to §§ 1062.84 and 1062.85 the weighted average price shall be adjusted at the rates set forth in § 1062.52 applicable at the location of the nonpool plant from which the milk was received.

21. Section 1062.84 is revised to read as follows:

§ 1062.84 Payments to the producer-settlement fund.

On or before the 12th day after the end of the month each handler shall pay to the market administrator the amount, if any, by which the total amounts specified in paragraph (a) of this section exceeds the amounts specified in paragraph (b) of this section:

(a) The total of the net pool obligation computed pursuant to § 1062.70 for such handler.

(b) The sum of

(1) The value of such handler's producer milk at the applicable uniform price specified in § 1062.80; and

(2) The value at the weighted average price(s) adjusted where applicable for the location of the plant(s), from which received (not to be less than the value at the Class II price) with respect to other source milk for which a value is computed pursuant to § 1062.70(e).

22. Section 1062.85 is revised to read as follows:

§ 1062.85 Payments out of the producer-settlement fund.

On or before the 13th day after the end of each month the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1062.84(b) exceeds the amount computed pursuant to § 1062.84(a), less any unpaid balances due the market administrator from such handler pursuant to §§ 1062.84, 1062.86, 1062.87, or 1062.88: *Provided,* That if the unobligated balance in the producer-settlement fund is insufficient to make full payment to all handlers entitled to payment pursuant to this paragraph, the market administrator shall reduce such payments at a uniform rate and shall complete such payments as soon as the appropriate funds are available.

23. Section 1062.87 is revised to read as follows:

§ 1062.87 Expense of administration.

As his pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 15th day after the end of the month two and one-half cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect (a) to producer milk and such handler's own production, (b) other source milk allocated to Class I pursuant to § 1062.45(a) (3) and (7) and the corresponding steps of § 1062.45(b), and (c) Class I milk disposed of on routes in the marketing area from partially regulated city plants that exceeds the hundredweight of Class I milk received during the month at such plant from pool plants and other order plants.

PART 1063—MILK IN QUAD CITIES-DUBUQUE MARKETING AREA

1. Section 1063.7 is revised to read as follows:

§ 1063.7 Producer.

"Producer" means any person, other than a producer-handler as defined in any order (including this part) issued pursuant to the Act, who produces milk in compliance with the Grade A inspection requirements of a duly constituted health authority, and whose milk is received at a pool plant.

§ 1063.9 [Amendment]

2. In § 1063.9, the reference "§ 1063.10 (a)" is changed to "§ 1063.10".

3. Section 1063.11 is revised to read as follows:

§ 1063.11 Nonpool plant.

"Nonpool plant" means any milk receiving, manufacturing or processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant, from which fluid milk products labeled Grade A in consumer-type packages or dispenser units are distributed on routes in the marketing area during the month.

(d) "Unregulated supply plant" means a nonpool plant that is a supply plant and is neither an other order plant nor a producer-handler plant.

4. In § 1063.12, a new paragraph (d) is added and reads as follows:

§ 1063.12 Handler.

* * * * *

(d) Any person who operates a partially regulated distributing plant described in § 1063.61.

5. In § 1063.22, additional paragraphs (m), (n), and (o) are added and read as follows:

§ 1063.22 Duties.

* * * * *

(m) Whenever required for purpose of allocating receipts from other order plants pursuant to § 1063.46(a)(8) and the corresponding step of § 1063.46(b), the market administrator shall estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose;

(n) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products from an other order plant, the classification to which such receipts are allocated pursuant to § 1063.46 pursuant to such report, and thereafter any change in such allocation required to correct errors disclosed in verification of such report; and

(o) Furnish to each handler operating a pool plant who has shipped fluid milk products to an other order plant, the classification to which the skim milk and butterfat in such fluid milk products were allocated by the market administrator of the other order on the basis of the report of the receiving handler; and, as necessary, any changes in such classification arising in the verification of such report.

6. Section 1063.31 is revised to read as follows:

§ 1063.31 Other reports.

(a) Each producer-handler shall make reports to the market administrator at such time and in such manner as the market administrator shall request;

(b) Each handler, except a producer-handler shall report to the market administrator in the detail and on forms prescribed by the market administrator on or before the 20th day after the end of the month for each of his pool plants his producer payroll for such month which shall show for each producer:

(1) His name and address;

(2) The total pounds of milk received from such producer;

(3) The number of days, if less than the entire month, for which milk was received from such producer;

(4) The average butterfat content of such milk;

(5) The net amount of such handler's payment together with the price paid and the amount and nature of any deductions; and

(c) Each handler specified in § 1063.12 (d) who operates a partially regulated distributing plant shall report as follows:

(1) As required pursuant to § 1063.30, except that receipts in Grade A milk shall be reported in lieu of those in producer milk; such report shall include a separate statement showing the respective amounts of skim milk and butterfat disposed of on routes in the marketing area as Class I milk; and

(2) As required in paragraph (b) of this section, if he wishes computations pursuant to § 1063.62(a) to be considered in computation of his obligation pursuant to § 1063.62. In such report payments to dairy farmers delivering Grade A milk shall be reported in lieu of payments to producers.

7. Section 1063.41 is revised to read as follows:

§ 1063.41 Classes of utilization.

Subject to the conditions set forth in § 1063.44 the classes of utilization shall be as follows:

(a) *Class I milk.* Class I milk shall be all skim milk (including concentrated and reconstituted skim milk) and butterfat:

(1) Disposed of in the form of a fluid milk product except:

(i) Any product fortified with added solids shall be Class I in an amount equal only to the weight of an equal volume of a like unmodified product of the same butterfat content; and

(ii) As classified pursuant to paragraph (b) (2) and (4) of this section; and

(2) Not accounted for as Class II milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Used to produce any product other than a fluid milk product;

(2) Disposed of to wholesale bakeries, candy manufacturers, soup companies, or for livestock feed;

(3) Contained in inventory of fluid milk products on hand at the end of the month;

(4) Skim milk dumped if the market administrator has been notified in advance and afforded the opportunity of verifying such dumping;

(5) The weight of skim milk in fluid milk products which is excepted from Class I milk pursuant to paragraph (a) (1) (i) of this section;

(6) In shrinkage up to but not in excess of, 2 percent of the total receipts of (i) producer milk (except milk diverted to a nonpool plant pursuant to § 1063.14), (ii) fluid milk products in bulk from an other order plant, exclusive of the quantity for which Class II utilization was requested by the operator of such plant and the handler, and (iii) fluid milk products in bulk from unregulated supply plants, exclusive of the quantity for which Class II utilization was requested by the handler; and

(7) In shrinkage assigned pursuant to § 1063.42(b)(2).

8. In § 1063.42, paragraph (b) is revised to read as follows:

§ 1063.42 Shrinkage.

* * * * *

(b) Prorate the resulting amounts between the receipts of skim milk and butterfat contained in:

(1) Items specified in § 1063.41(b)(6); and

(2) Remaining receipts of other source milk.

9. Section 1063.44 is revised to read as follows:

§ 1063.44 Transfers.

Skim milk or butterfat in the form of a fluid milk product shall be classified:

(a) At the utilization indicated by the operators of both plants, otherwise as Class I milk, if transferred from a pool plant to the pool plant of another handler, subject to the following conditions:

(1) The skim milk or butterfat so assigned to either class shall be limited to the amount thereof remaining in such class in the plant(s) of the transferee handler after computations pursuant to § 1063.46(a)(8) and the corresponding step of § 1063.46(b);

(2) If the transferor handler received during the month other source milk to be allocated pursuant to § 1063.46(a)(3) and the corresponding step of § 1063.46 (b), the skim milk and butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor handler received during the month other source milk to be allocated pursuant to § 1063.46(a)(7) or (8) and the corresponding steps of § 1063.46(b), the skim milk and butterfat so transferred up to the total of such receipts shall not be classified as Class I milk to a greater extent than would be applicable to a like quantity of such other source milk received at the transferee plant;

(b) As Class I milk, if transferred from a pool plant to a producer-handler;

(c) As Class I milk, if transferred or diverted to a nonpool plant that is neither an other order plant nor a producer-handler plant, located more than 300 miles by the shortest highway distance as determined by the market administrator, from the City Hall of Rock Island, Illinois;

(d) As Class I milk, if transferred or diverted in bulk to a nonpool plant that is neither an other order plant nor a producer-handler plant, located not more than 300 miles, by the shortest highway distance as determined by the market administrator, from the City Hall of Rock Island, Illinois, unless the requirements of subparagraphs (1) and (2) of this paragraph are met, in which case the skim milk and butterfat so transferred or diverted shall be classified in accordance with the assignment resulting from subparagraph (3) of this paragraph:

(1) The transferring or diverting handler claims classification pursuant to the assignment set forth in subparagraph (3) of this paragraph in his report submitted to the market administrator pursuant to § 1063.30 for the month within which such transaction occurred;

(2) The operator of such nonpool plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for the purpose of verification; and

(3) The skim milk and butterfat so transferred shall be classified on the basis of the following assignment of utilization at such nonpool plant in excess of receipts of packaged fluid milk products from all pool plants and other order plants:

(i) Any Class I utilization disposed of on routes in the marketing area shall be first assigned to the skim milk and butterfat in the fluid milk products so transferred or diverted from pool plants, next pro rata to receipts from other order plants and thereafter to receipts from dairy farmers who the market administrator determines constitute regular sources of supply of Grade A milk for such nonpool plant;

(ii) Any Class I utilization disposed of on routes in the marketing area of another order issued pursuant to the Act shall be first assigned to receipts from plants fully regulated by such order, next pro rata to receipts from pool plants and other order plants not regulated by such order, and thereafter to receipts from dairy farmers who the market administrator determines constitute regular sources of supply for such nonpool plant;

(iii) Class I utilization (except in ungraded fluid milk products disposed of for manufacturing uses) in excess of that assigned pursuant to subdivisions (i) and (ii) of this subparagraph shall be assigned first to remaining receipts from dairy farmers who the market administrator determines constitute the regular source of supply for such nonpool plant and Class I utilization in excess of such receipts shall be assigned pro rata to unassigned receipts at such nonpool plant from all pool and other order plants; and

(iv) To the extent that Class I utilization is not so assigned to it, the skim milk and butterfat so transferred shall be classified as Class II milk; and

(e) As follows, if transferred to an other order plant in excess of receipts from such plant in the same category as described in subparagraph (1), (2), or (3) of this paragraph:

(1) If transferred in packaged form, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated as a fluid milk product under the other order (including allocation under the conditions set forth in subparagraph (3) of this paragraph);

(3) If the operators of both the transferor and transferee plants so request in the reports of receipts and utilization filed with their respective market administrators, transfers in bulk form shall be classified as Class II to the extent of the Class II utilization (or comparable utilization under such other order) available for such assignment pursuant to the allocation provisions of the transferee order;

(4) If information concerning the classification to which allocated under the other order is not available to the market administrator for purposes of establishing classification pursuant to this paragraph, classification shall be as Class I, subject to adjustment when such information is available;

(5) For purposes of this paragraph, if the transferee order provides for more than two classes of utilization, milk allocated to a class consisting primarily of fluid milk products shall be classified as Class I, and milk allocated to other classes shall be classified as Class II; and

(6) If the form in which any fluid milk product is transferred to an other order plant is not defined as a fluid milk product under such other order, classification shall be in accordance with the provisions of § 1063.41.

10. Section 1063.46 is revised to read as follows:

§ 1063.46 Allocation of skim milk and butterfat classified.

After making the computations pursuant to § 1063.45, the market administrator shall determine the classification of producer milk for each handler as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class II the pounds of skim milk classified as Class II pursuant to § 1063.41(b)(6);

(2) Subtract from the remaining pounds of skim milk in each class the pounds of skim milk in fluid milk products received in packaged form from other order plants as follows:

(i) From Class II milk, the lesser of the pounds remaining or two percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(3) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class II, the pounds of skim milk in each of the following:

(i) Other source milk in a form other than that of a fluid milk product;

(ii) Receipts of fluid milk products for which Grade A certification is not established, or which are from unidentified sources; and

(iii) Receipts of fluid milk products from a producer-handler, as defined under this or any other Federal order;

(4) Subtract, in the order specified below, from the pounds of skim milk remaining in Class II but not in excess of such quantity:

(i) Receipts of fluid milk products from an unregulated supply plant:

(*a*) For which the handler requests Class II utilization; or

(*b*) Which are in excess of the pounds of skim milk determined by multiplying the pounds of skim milk remaining in Class I milk by 1.25 and subtracting the sum of the pounds of skim milk in producer milk, receipts from other pool handlers, and receipts in bulk from other order plants;

(ii) Receipts of fluid milk products in bulk from an other order plant in excess of similar transfers to such plant, if Class II utilization was requested by the operator of such plant and the handler;

(5) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class II, the pounds of skim milk in inventory of fluid milk products on hand at the beginning of the month;

(6) Add to the remaining pounds of skim milk in Class II milk the pounds subtracted pursuant to subparagraph (1) of this paragraph;

(7) Subtract from the pounds of skim milk remaining in each class, pro rata to such quantities, the pounds of skim milk in receipts of fluid milk products from unregulated supply plants which were not subtracted pursuant to subparagraph (4)(i) of this paragraph;

(8) Subtract from the pounds of skim milk remaining in each class, in the following order, the pounds of skim milk in receipts of fluid milk products in bulk from an other order plant(s), in excess in each case of similar transfers to the same plant, which were not subtracted pursuant to subparagraph (4)(ii) of this paragraph:

(i) In series beginning with Class II, the pounds determined by multiplying the pounds of such receipts by the larger of the percentage of estimated Class II utilization of skim milk announced for the month by the market administrator pursuant to § 1063.22(m) or the percentage that Class II utilization remaining is of the total remaining utilization of skim milk of the handler; and

(ii) From Class I, the remaining pounds of such receipts;

(9) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk received in fluid milk products from pool plants of other handlers according to the classification assigned pursuant to § 1063.44(a); and

(10) If the pounds of skim milk remaining in both classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class II. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) Combine the amounts of skim milk and butterfat determined pursuant to paragraphs (a) and (b) of this section into one total for each class and determine the weighted average butterfat content of producer milk in each class.

11. Section 1063.52 is revised to read as follows:

§ 1063.52 Location adjustments to handlers.

(a) For milk received from producers at a pool plant located 70 miles or more by shortest hard-surfaced highway distance as measured by the market administrator, from the City Hall in Rock Island, Illinois, and disposed of as Class I milk or assigned Class I location adjustment credit pursuant to paragraph (b) of this section, and for other source milk for which a location adjustment is applicable, the price computed pursuant to § 1063.50(a) shall be reduced by 10 cents, plus 1.5 cents for each 10 miles or fraction thereof that such distance exceeds 80 miles;

(b) For purposes of calculating such adjustment, transfers between pool plants shall be assigned Class I disposition at the transferee plant, in excess of the sum of receipts at such plant from producers, and the volume assigned as Class I to receipts from other order plants and unregulated supply plants, such assignment to be made first to transferor plants at which no location adjustment credit is applicable and then in sequence beginning with the plant at which the least location adjustment would apply.

12. Section 1063.62 is revised to read as follows:

§ 1063.62 Obligations of handler operating a partially regulated distributing plant.

Each handler who operates a partially regulated distributing plant shall pay to the market administrator for the producer-settlement fund on or before the 25th day after the end of the month either of the amounts (at the handler's election) calculated pursuant to paragraph (a) or (b) of this section. If the handler fails to report pursuant to §§ 1063.30 and 1063.31(b) the information necessary to compute the amount specified in paragraph (a) of this section, he shall pay the amount computed pursuant to paragraph (b) of this section:

(a) An amount computed as follows:

(1)(i) The obligation that would have been computed pursuant to § 1063.70 at such plant shall be determined as though such plant were a pool plant. For purposes of such computation, receipts at such nonpool plant from a pool plant or an other order plant shall be assigned to the utilization at which classified at the pool plant or other order plant and transfers from such nonpool plant to a pool plant or an other order plant shall be classified as Class II milk if allocated to such class at the pool plant or other order plant and be valued at the weighted average price of the respective order if so allocated to Class I milk. There shall be included in the obligation so computed a charge in the amount specified in § 1063.70(e) and a credit in the amount specified in § 1063.84(b)(2) with respect to receipts from an unregulated supply plant, unless an obligation with respect to such plant is computed as specified below in this subparagraph.

(ii) If the operator of the partially regulated distributing plant so requests, and provides with his reports pursuant to §§ 1063.30 and 1063.31(b) similar reports with respect to the operations of any other nonpool plant which serves as a supply plant for such partially regulated distributing plant by shipments to such plant during the month equivalent to the requirements of § 1063.10(b), with agreement of the operator of such plant that the market administrator may examine the books and records of such plant for purposes of verification to such reports, there will be added the amount

of the obligation computed at such nonpool supply plant in the same manner and subject to the same conditions as for the partially regulated distributing plant.

(2) From this obligation there will be deducted the sum of (i) the gross payments made by such handler for Grade A milk received during the month from dairy farmers at such plant and like payments made by the operator of a supply plant(s) included in the computations pursuant to subparagraph (1) of this paragraph, and (ii) any payments to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant.

(b) An amount computed as follows:

(1) Determine the respective amounts of skim milk and butterfat disposed of as Class I milk on routes in the marketing area;

(2) Deduct the respective amounts of skim milk and butterfat received as Class I milk at the partially regulated distributing plant from pool plants and other order plants except that deducted under a similar provision of another order issued pursuant to the Act;

(3) Combine the amounts of skim milk and butterfat remaining into one total and determine the weighted average butterfat content; and

(4) From the value of such milk at the Class I price applicable at the location of the nonpool plant, subtract its value at the weighted average price applicable at such location (not to be less than the Class II price).

§ 1063.63 [Revocation]

13. Section 1063.63 is revoked.

14. Section 1063.70 is revised to read as follows:

§ 1063.70 Computation of the net pool obligation of each pool handler.

The net pool obligation of each pool handler during each month shall be a sum of money computed by the market administrator as follows:

(a) Multiply the quantity of producer milk in each class, as computed pursuant to § 1063.46(c), by the applicable class prices (adjusted pursuant to §§ 1063.51 and 1063.52);

(b) Add the amount obtained from multiplying the pounds of overage deducted from each class pursuant to § 1063.46(a)(10) and the corresponding step of § 1063.46(b) by the applicable class prices;

(c) Add the amount obtained from multiplying the difference between the Class II price for the preceding month and the Class I price for the current month by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1063.46(a)(5) and the corresponding step of § 1063.46(b);

(d) Add an amount equal to the difference between the value at the Class I price applicable at the pool plant and the value at the Class II price, with respect to skim milk and butterfat in other source milk subtracted from Class I pursuant to § 1063.46(a)(3) and the corresponding step of § 1063.46(b);

(e) Add an amount equal to the value at the Class I price, adjusted for location of the nearest nonpool plant(s) from which an equivalent volume was received, with respect to skim milk and butterfat subtracted from Class I pursuant to § 1063.46(a)(7) and the corresponding step of § 1063.46(b).

15. In § 1063.71, paragraph (b) is revised to read as follows:

§ 1063.71 Computation of aggregate value used to determine uniform price.

* * * * *

(b) Add or subtract for each one-tenth percent that the average butterfat content of the milk specified in § 1063.72(a) is less or more, respectively, than 3.5 percent, an amount computed by multiplying such differences by the butterfat differential to producers, and multiplying the result by the hundredweight of such milk;

16. Section 1063.72 is revised to read as follows:

§ 1063.72 Computation of weighted average price.

For each month the market administrator shall compute a weighted average price for milk of 3.5 percent butterfat content f.o.b. Rock Island, Illinois, as follows:

(a) Divide the aggregate value computed pursuant to § 1063.71 by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1063.70(e); and

(b) Subtract not less than four cents nor more than five cents from the price computed pursuant to paragraph (a) of this section. The result shall be known as the "weighted average price", and except for the months of March through June, shall be the uniform price for milk received from producers.

17. In § 1063.73, paragraph (d) is revised to read as follows:

§ 1063.73 Computation of uniform price for base milk and excess milk.

* * * * *

(d) From the aggregate value of all milk obtained in § 1063.71 subtract the following:

(1) An amount computed by multiplying the hundredweight of milk specified in § 1063.72(a)(2) by the weighted average price; and

(2) The value of excess milk pursuant to paragraph (c) of this section; and

18. Section 1063.82 is revised to read as follows:

§ 1063.82 Location differentials to producers and on nonpool milk.

(a) The uniform price for producer milk pursuant to § 1063.72 and the uniform price for base milk pursuant to § 1063.73 for producer milk received at a pool plant shall be reduced according to the location of the pool plant, at the rates set forth in § 1063.52; and

(b) For purposes of computations pursuant to §§ 1063.84 and 1063.85 the weighted average price shall be adjusted at the rates set forth in § 1063.52 applicable at the location of the nonpool plant from which the milk was received.

19. Section 1063.84 is revised to read as follows:

§ 1063.84 Payments to the producer-settlement fund.

On or before the 12th day after the end of the month each handler shall pay to the market administrator the amount, if any, by which the total amounts specified in paragraph (a) of this section exceed the amounts specified in paragraph (b) of this section:

(a) The total of the net pool obligation computed pursuant to §1063.70 for such handler; and

(b) The sum of

(1) The value of such handler's producer milk at the applicable uniform prices specified in § 1063.80; and

(2) The value at the weighted average price applicable at the location of the plant(s), from which received (not to be less than the value at the Class II price) with respect to other source milk for which a value is computed pursuant to § 1063.70(e).

20. Section 1063.85 is revised to read as follows:

§ 1063.85 Payments out of the producer-settlement fund.

On or before the 14th day after the end of each month the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1063.84(b) exceeds the amount computed pursuant to § 1063.84(a): *Provided*, That if the balance in the producer-settlement fund is insufficient to make all payments pursuant to this paragraph, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the necessary funds are available. A handler who has not received the balance of such payments from the market administrator shall not be considered in violation of § 1063.80 if he reduces his payments to producers by not more than the amount of the reduction in payment from the producer-settlement fund.

21. Section 1063.87 is revised to read as follows:

§ 1063.87 Expense of administration.

As his pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 15th day after the end of the month three cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect to (a) producer milk, (b) other source milk allocated to Class I pursuant to § 1063.46(a) (3) and (7) and the corresponding steps of §1063.46 (b) and (c) Class I milk disposed of from a partially regulated distributing plant on routes in the marketing area that exceeds Class I milk received during the month at such plant from pool plants and other order plants.

PART 1064—MILK IN GREATER KANSAS CITY MARKETING AREA

1. Section 1064.7 is revised to read as follows:

§ 1064.7 Producer.

"Producer" means any person, other than a producer-handler as defined in any order (including this part) issued pursuant to the Act, who (a) produces milk under a dairy farm permit or rating issued by a duly constituted health authority for the production of milk to be used for consumption as Grade A milk in the marketing area which: (1) Is received at a pool plant, or (2) is caused to be diverted during any of the months of January through August or to the extent of not more than 16 days' production during the months of September through December, from a pool plant to a nonpool plant by a handler or cooperative association for the account of such handler or cooperative association, or (b) produces milk acceptable to agencies of the U.S. Government for fluid consumption in its institutions or bases which is received at a pool plant supplying Class I milk to such an institution or base in the marketing area. Milk diverted pursuant to paragraph (a)(2) of this section shall be considered as having been received at the plant from which it is diverted.

2. In § 1064.11, paragraph (b) is revised and paragraph (f) is added to read as follows:

§ 1064.11 Handler.

* * * * *

(b) Any person in his capacity as the operator of a partially regulated distributing plant;

* * * * *

(f) A producer-handler, or any person who operates an other order plant described in § 1064.62.

3. Section 1064.19 is revised to read as follows:

§ 1064.19 Nonpool plant.

"Nonpool plant" means any milk receiving, manufacturing or processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a nonpool approved plant that is neither an other order plant nor a producer-handler plant, from which fluid milk products in consumer-type packages or dispenser units are distributed on routes in the marketing area during the month.

(d) "Unregulated supply plant" means a nonpool approved plant from which milk is shipped during the month to a pool plant qualified pursuant to § 1064.10 and which is not an other order plant nor a producer-handler plant.

4. In § 1064.22, additional paragraphs (m), (n), and (o) are added and read as follows:

§ 1064.22 Duties.

* * * * *

(m) Whenever required for purpose of allocating receipts from other order plants pursuant to § 1064.46(a)(8) and the corresponding step of § 1064.46(b), the market administrator shall estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose;

(n) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products from an other order plant, the classification to which such receipts are allocated pursuant to § 1064.46 pursuant to such report, and thereafter any change in such allocation required to correct errors disclosed in verification of such report; and

(o) Furnish to each handler operating a pool plant who has shipped fluid milk products to an other order plant, the classification to which the skim milk and butterfat in such fluid milk products were allocated by the market administrator of the other order on the basis of the report of the receiving handler; and, as necessary, any changes in such classification arising in the verification of such report.

5. In § 1064.30, the introductory text is revised and paragraph (h) is added as follows:

§ 1064.30 Reports of receipts and utilization.

On or before the 7th day after the end of each delivery period each handler, except a producer-handler, shall report to the market administrator in the detail and on forms prescribed by the market administrator as follows:

* * * * *

(h) Each handler specified in § 1064.11(b) who operates a partially regulated distributing plant shall report as required in this section, with receipts in Grade A milk reported in lieu of those in producer milk, except that quantities of base milk and excess milk need not be reported; such report shall include a separate statement showing the respective amounts of skim milk and butterfat disposed of in the marketing area as Class I milk on routes.

6. In § 1064.31, the introductory paragraph preceding paragraph (a) is revised to read as follows:

§ 1064.31 Payroll reports.

On or before the 23d day of each delivery period, each handler except a producer-handler or a handler making payments pursuant to § 1064.61(b) shall submit to the market administrator his producer payroll (or in the case of a handler making payments pursuant to § 1064.61(a) his payroll for dairy farmers delivering Grade A milk, except that quantities of base milk and excess milk need not be reported) for receipts during the preceding delivery period which shall show:

* * * * *

§ 1064.32 [Amendment]

7. In § 1064.32(a), the reference "§ 1064.61(a)" is changed to "§ 1064.61(b)".

8. Section 1064.41(b) (6) and (7) is revised to read as follows:

§ 1064.41 Classes of utilization.

* * * * *

(b) * * *

(6) In shrinkage allocated to receipts specified in § 1064.42(b)(1) but not to exceed the following:

(i) Two percent of receipts of skim milk and butterfat in milk received from producers, including that which is received by a cooperative association in its capacity as a handler pursuant to § 1064.11 (c) or (d) but not including producer milk diverted in cans to a nonpool plant(s) pursuant to § 1064.7; plus

(ii) 1.5 percent of skim milk and butterfat, respectively, received in bulk tank lots from other pool plants; plus

(iii) 1.5 percent of skim milk and butterfat, respectively, received directly from a cooperative association which is a handler pursuant to § 1064.11(c) except that if the handler operating the pool plant files with the market administrator notice that the purchase of such milk is on the basis of farm weights determined by farm bulk tank calibrations, the applicable percentage shall be two percent; plus

(iv) 1.5 percent of skim milk and butterfat, respectively, received in bulk tank lots from an other order plant, exclusive of the quantity for which Class II utilization was requested by the operator of such plant and the handler; plus

(v) 1.5 percent of skim milk and butterfat, respectively, received in bulk tank lots from unregulated supply plants, exclusive of the quantity for which Class II utilization was requested by the handler; less

(vi) 1.5 percent of skim milk and butterfat, respectively, disposed of in bulk tank lots from pool plants to other milk plants; and less

(vii) 1.5 percent of skim milk and butterfat, respectively, disposed of to plants by a cooperative association which is the handler pursuant to § 1064.11(c) unless the exception provided in (iii) of this § 1064.41(b)(6) applies in which case the applicable percentage shall be two percent; and

(7) In shrinkage of skim milk and butterfat, respectively, assigned pursuant to § 1064.42(b)(2).

9. In § 1064.42, paragraph (b) is revised to read as follows:

§ 1064.42 Shrinkage.

* * * * *

(b) Prorate the resulting amounts between (1) the receipts of skim milk and butterfat in the net quantity of milk

from producers, from cooperative associations pursuant to § 1064.11 (c) and (d), in bulk tanks from pool plants of other handlers, in bulk tanks from other order plants exclusive of the quantity for which Class II utilization was requested by the operator of such plant and the handler, and in bulk tanks from unregulated supply plants exclusive of the quantity for which Class II utilization was requested by the handler; and (2) the receipts of skim milk and butterfat in other source milk exclusive of that other source milk specified in subparagraph (1) of this paragraph.

10. Section 1064.44 is revised to read as follows:

§ 1064.44 Transfers.

Skim milk or butterfat in the form of a fluid milk product shall be classified:

(a) At the utilization mutually indicated in writing to the market administrator by the operators of both plants on or before the 7th day after the end of the delivery period within which such transfer occurred or by the handler pursuant to § 1064.11 (c) and (d) and the plant operator, otherwise as Class I milk, if transferred to the pool plant of another handler subject in either event to the following conditions:

(1) The skim milk or butterfat so assigned to either class shall be limited to the amount thereof remaining in such class in the transferee plant after computations pursuant to § 1064.46(a)(8) and the corresponding step of § 1064.46 (b);

(2) If the transferor plant received during the month other source milk to be allocated pursuant to § 1064.46(a)(3), and the corresponding step of § 1064.46 (b), the skim milk and butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor handler received during the month other source milk to be allocated pursuant to § 1064.46(a)(7) or (8) and the corresponding steps of § 1064.46(b), the skim milk and butterfat so transferred up to the total of such receipts shall not be classified as Class I milk to a greater extent than would be applicable to a like quantity of such other source milk received at the transferee plant;

(b) As Class I milk, if transferred from a pool plant to a producer-handler;

(c) As Class I milk, if transferred or diverted in the form of milk, skim milk or cream to a nonpool plant that is neither an other order plant nor a producer-handler plant, located more than 200 miles by the shortest highway distance as determined by the market administrator, from the nearer of the City Halls of Kansas City, Missouri; Manhattan, Kansas; or Emporia, Kansas, except that cream so transferred may be classified as Class II, subject to such verification of alternate utilization as the market administrator may make, if notice is given to the market administrator prior to shipment and each container is labeled or tagged with a certificate by the transferor that such cream is sold as Grade C cream for manufacturing only;

(d) As Class I milk, if transferred or diverted in the form of bulk milk, skim milk or cream to a nonpool plant that is neither an other order plant nor a producer-handler plant, located not more than 200 miles, by the shortest highway distance as determined by the market administrator, from the nearer of the City Halls of Kansas City, Missouri; Manhattan, Kansas; or Emporia, Kansas; unless the requirements of subparagraphs (1) and (2) of this paragraph are met, in which case the skim milk and butterfat so transferred or diverted shall be classified in accordance with the assignment resulting from subparagraph (3) of this paragraph:

(1) The transferring or diverting handler claims classification pursuant to the assignment set forth in subparagraph (3) of this paragraph in his report submitted to the market administrator pursuant to § 1064.30 for the month within which such transaction occurred;

(2) The operator of such nonpool plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for the purpose of verification; and

(3) The skim milk and butterfat so transferred shall be classified on the basis of the following assignment of utilization at such nonpool plant in excess of receipts of packaged fluid milk products from all pool plants and other order plants:

(i) Any Class I utilization disposed of on routes in the marketing area shall be first assigned to the skim milk and butterfat in the fluid milk products so transferred or diverted from pool plants, next pro rata to receipts from other order plants and thereafter to receipts from dairy farmers who the market administrator determines constitute regular sources of supply of Grade A milk for such nonpool plant;

(ii) Any Class I utilization disposed of on routes in the marketing area of another order issued pursuant to the Act shall be first assigned to receipts from plants fully regulated by such order, next pro rata to receipts from pool plants and other order plants not regulated by such order, and thereafter to receipts from dairy farmers who the market administrator determines constitute regular sources of supply for such nonpool plant;

(iii) Class I utilization in excess of that assigned pursuant to subdivisions (i) and (ii) of this subparagraph shall be assigned first to remaining receipts from dairy farmers who the market administrator determines constitute the regular source of supply for such nonpool plant and Class I utilization in excess of such receipts shall be assigned pro rata to unassigned receipts at such nonpool plant from all pool and other order plants; and

(iv) To the extent that Class I utilization is not so assigned to it, the skim milk and butterfat so transferred shall be classified as Class II milk; and

(v) If any skim milk or butterfat is transferred to a second nonpool plant under this paragraph the same conditions of audit, classification, and allocation shall apply.

(e) As follows, if transferred to an other order plant in excess of receipts from such plant in the same category as described in subparagraph (1), (2) or (3) of this paragraph:

(1) If transferred in packaged form, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated as a fluid milk product under the other order (including allocation under the conditions set forth in subparagraph (3) of this paragraph);

(3) If the operators of both the transferor and transferee plants so request in the reports of receipts and utilization filed with their respective market administrators, transfers in bulk form shall be classified as Class II to the extent of the Class II utilization (or comparable utilization under such other order) available for such assignment pursuant to the allocation provisions of the transferee order;

(4) If information concerning the classification to which allocated under the other order is not available to the market administrator for purposes of establishing classification pursuant to this paragraph, classification shall be as Class I, subject to adjustment when such information is available;

(5) For purposes of this paragraph (e), if the transferee order provides for more than two classes of utilization, milk allocated to a class consisting primarily of fluid milk products shall be classified as Class I, and milk allocated to other classes shall be classified as Class II; and

(6) If the form in which any fluid milk product is transferred to an other order plant is not defined as a fluid milk product under such other order, classification shall be in accordance with the provisions of § 1064.41.

11. Section 1064.46 is revised to read as follows:

§ 1064.46 Allocation of skim milk and butterfat classified.

After making the computations pursuant to § 1064.45, the market administrator shall determine the classification of producer milk for each handler as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class II the pounds of skim milk classified as Class II pursuant to § 1064.41(b)(6);

(2) Subtract from the remaining pounds of skim milk in each class the pounds of skim milk in fluid milk products received in packaged form from other order plants as follows:

(i) From Class II milk, the lesser of the pounds remaining or two percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(3) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class II, the pounds of skim milk in each of the following:

(i) Other source milk in a form other than that of a fluid milk product;

(ii) Receipts of fluid milk products for which Grade A certification is not established, or which are from unidentified sources; and

(iii) Receipts of fluid milk products from a producer-handler, as defined under this or any other Federal order;

(4) Subtract, in the order specified below, from the pounds of skim milk remaining in Class II but not in excess of such quantity, the pounds of skim milk in each of the following:

(i) Receipts of fluid milk products from an unregulated supply plant:

(*a*) For which the handler requests Class II utilization; or

(*b*) Which are in excess of the pounds of skim milk determined by multiplying the pounds of skim milk remaining in Class I milk by 1.25 and subtracting the sum of the pounds of skim milk in producer milk, receipts from other pool plants, from cooperative handlers pursuant to § 1064.11 (c) and (d), and receipts in bulk from other order plants;

(ii) Receipts of fluid milk products in bulk from an other order plant in excess of similar transfers to such plant, if Class II utilization was requested by the operator of such plant and the handler;

(5) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class II, the pounds of skim milk in inventory of fluid milk products on hand at the beginning of the month;

(6) Add to the remaining pounds of skim milk in Class II milk the pounds subtracted pursuant to subparagraph (1) of this paragraph;

(7) Subtract from the pounds of skim milk remaining in each class, pro rata to such quantities, the pounds of skim milk in receipts of fluid milk products from unregulated supply plants which were not subtracted pursuant to subparagraph (4) (i) of this paragraph;

(8) Subtract from the pounds of skim milk remaining in each class, in the following order, the pounds of skim milk in receipts of fluid milk products in bulk from an other order plant(s), in excess in each case of similar transfers to the same plant, which were not subtracted pursuant to subparagraph (4) (ii) of this paragraph:

(i) In series beginning with Class II, the pounds determined by multiplying the pounds of such receipts by the larger of the percentage of estimated Class II utilization of skim milk announced for the month by the market administrator pursuant to § 1064.22(m) or the percentage that Class II utilization remaining is of the total remaining utilization of skim milk of the handler; and

(ii) From Class I, the remaining pounds of such receipts;

(9) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk received in fluid milk products from other handlers according to the classification assigned pursuant to § 1064.44(a);

(10) If the pounds of skim milk remaining in both classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class II. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) Combine the amounts of skim milk and butterfat determined pursuant to paragraphs (a) and (b) of this section into one total for each class and determine the weighted average butterfat content of producer milk in each class.

12. Section 1064.53 is revised to read as follows:

§ 1064.53 Location adjustments to handlers.

(a) For milk received from producers at a pool plant located more than 50 miles by shortest highway distance as measured by the market administrator, from the nearest of the City Halls in Kansas City, Missouri, and Lawrence, Topeka, Manhattan, Council Grove and Emporia, Kansas, which is classified as Class I milk or assigned Class I location adjustment credit pursuant to paragraph (b) of this section and for other source milk to which location adjustments are applicable, the price computed pursuant to § 1064.51(a) shall be reduced by 10 cents if such plant is located more than 50 miles but not more than 60 miles from such City Hall, by 16 cents if such plant is located 60 to 80 miles from such City Hall, and by an additional one cent for each 10 miles or fraction thereof that such distance exceeds 80 miles.

(b) For purposes of calculating such adjustment, bulk transfers between pool plants shall be assigned to the Class I disposition at the transferee plant, in excess of the sum of receipts at such plant from producers and cooperative associations pursuant to § 1064.11(c) and (d), and the pounds assigned as Class I to receipts from other order plants and unregulated supply plants. Such assignment is to be made first to transferor plants at which no location adjustment credit is applicable and then in sequence beginning with the plant at which the least location adjustment would apply.

13. Section 1064.61 is revised to read as follows:

§ 1064.61 Obligations of handler operating a partially regulated distributing plant.

Each handler who operates a partially regulated distributing plant except a handler exempt pursuant to § 1064.60 shall pay to the market administrator for the producer-settlement fund on or before the 25th day after the end of the month either of the amounts (at the handler's election) calculated pursuant to paragraph (a) or (b) of this section. If the handler fails to report pursuant to §§ 1064.30(h) and 1064.31 the information necessary to compute the amount specified in paragraph (a) of this section, he shall pay the amount computed pursuant to paragraph (b) of this section:

(a) An amount computed as follows:

(1) (i) The obligation that would have been computed pursuant to § 1064.70 at such plant shall be determined as though such plant were a pool plant. For purposes of such computation, receipts at such nonpool plant from a pool plant or an other order plant shall be assigned to the utilization at which classified at the pool plant or other order plant and transfers from such nonpool plant to a pool plant or an other order plant shall be classified as Class II milk if allocated to such class at the pool plant or other order plant and be valued at the weighted average price of the respective order if so allocated to Class I milk. There shall be included in the obligation so computed a charge in the amount specified in § 1064.70(e) and a credit in the amount specified in § 1064.84(b)(2) with respect to receipts from an unregulated supply plant, unless an obligation with respect to such plant is computed as specified below in this subparagraph.

(ii) If the operator of the partially regulated distributing plant so requests, and provides with his reports pursuant to §§ 1064.30(h) and 1064.31 similar reports with respect to the operations of any other nonpool plant which serves as a supply plant for such partially regulated distributing plant by shipments to such plant during the month equivalent to the requirements of § 1064.10(b) with agreement of the operator of such plant that the market administrator may examine the books and records of such plant for purposes of verification of such reports, there will be added the amount of the obligation computed at such nonpool supply plant in the same manner and subject to the same conditions as for the partially regulated distributing plant.

(2) From this obligation there will be deducted the sum of (i) the gross payments made by such handler for Grade A milk received during the month from dairy farmers at such plant and like payments made by the operator of a supply plant(s) included in the computations pursuant to subparagraph (1) of this paragraph, and (ii) any payments to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant.

(b) An amount computed as follows:

(1) Determine the respective amounts of skim milk and butterfat disposed of as Class I milk on routes in the marketing area;

(2) Deduct the respective amounts of skim milk and butterfat received as Class I milk at the partially regulated distributing plant from pool plants and other order plants, except that deducted under a similar provision of another order issued pursuant to the Act;

(3) Combine the amounts of skim milk and butterfat remaining into one total and determine the weighted average butterfat content; and

(4) From the value of such milk at the Class I price applicable at the location of the nonpool plant, subtract its value at the weighted average price applicable at such location (not to be less than the Class II price).

14. Section 1064.70 is revised to read as follows:

§ 1064.70 Computation of the net pool obligation of each pool handler.

The net pool obligation of each pool handler during each month shall be a

sum of money computed by the market administrator as follows:

(a) Multiply the quantity of producer milk in each class, as computed pursuant to § 1064.46(c), by the applicable class prices (adjusted pursuant to §§ 1064.52 and 1064.53);

(b) Add the amount obtained from multiplying the pounds of overage deducted from each class pursuant to § 1064.46(a)(10) and the corresponding step of § 1064.46(b) by the applicable class prices;

(c) Add the amount obtained by multiplying the difference between the Class II price for the preceding month and the Class I price for the current month by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1064.46(a)(5) and the corresponding step of § 1064.46(b);

(d) Add an amount equal to the difference between the value at the Class I price applicable at the pool plant and the value at the Class II price, with respect to skim milk and butterfat in other source milk subtracted from Class I pursuant to § 1064.46(a)(3) and the corresponding step of § 1064.46(b);

(e) Add an amount equal to the value at the Class I price, adjusted for location of the nearest nonpool plant(s) from which an equivalent weight was received, with respect to skim milk and butterfat subtracted from Class I pursuant to § 1064.46(a)(7) and the corresponding step of § 1064.46(b).

15. Section 1064.71 is revised to read as follows:

§ 1064.71 Computation of uniform prices.

For each month the market administrator shall compute the "uniform price" per hundredweight of milk received from producers (or "weighted average price") as follows:

(a) Combine into one total the values computed pursuant to § 1064.70 for all handlers who filed the reports prescribed by § 1064.30 for the month and who made the payments pursuant to §§ 1064.80 and 1064.84 for the preceding month;

(b) Add an amount equal to the total value of the location differentials computed pursuant to § 1064.81;

(c) Subtract, if the average butterfat content of the milk specified in paragraph (e) of this section is more than 3.5 percent, or add, if such butterfat content is less than 3.5 percent, an amount computed by multiplying the amount by which the average butterfat content of such milk varies from 3.5 percent by the butterfat differential computed pursuant to § 1064.82 and multiplying the result by the total hundredweight of such milk;

(d) Add an amount equal to not less than one-half of the unobligated balance in the producer-settlement fund;

(e) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1064.70(e);

(f) Subtract not less than four cents nor more than five cents per hundredweight. The result shall be the "weighted average price", and for the months August through January shall be the "uniform price" for milk received from producers.

16. Section 1064.72 is revised to read as follows:

§ 1064.72 Computation of uniform prices for base milk and excess milk.

For each of the delivery periods of February through July the market administrator shall compute uniform prices per hundredweight for base milk and for excess milk as follows:

(a) Subtract from the amount resulting from the computations made pursuant to paragraphs (a) through (d) of § 1064.71 an amount computed by multiplying the hundredweight of milk specified in paragraph (e)(2) of § 1064.71 by the weighted average price;

(b) Compute the total value of excess milk by multiplying the hundredweight of such milk not in excess of the total quantity of Class II milk included in these computations by the price for Class II milk of 3.5 percent butterfat content, multiplying the hundredweight of such milk in excess of the total hundredweight of such Class II milk by the price for Class I milk of 3.5 percent butterfat content, and adding together the resulting amounts;

(c) Divide the total value of excess milk obtained in paragraph (b) of this section by the total hundredweight of such milk, and adjust to the nearest cent. The resulting figure shall be the uniform price for excess milk of 3.5 percent butterfat received from producers;

(d) Subtract the value of excess milk obtained in paragraph (b) of this section from the aggregate value of milk obtained in paragraph (a) of this section and adjust by any amount involved in adjusting the uniform price of excess milk to the nearest cent;

(e) Divide the amount obtained in paragraph (d) of this section by the total hundredweight of base milk included in these computations; and

(f) Subtract not less than 4 cents nor more than 5 cents from the amount computed pursuant to paragraph (e) of this section. The resulting figure shall be the uniform price for base milk of 3.5 percent butterfat content received from producers at pool plants, f.o.b. marketing area.

17. Section 1064.81 is revised to read as follows:

§ 1064.81 Location differentials to producers and on nonpool milk.

(a) The uniform price and the base price for producer milk received at a pool plant or diverted from a pool plant shall be reduced according to the location of the pool plant at the rates set forth in § 1064.53; and

(b) For purposes of computations pursuant to §§ 1064.84 and 1064.85 the weighted average price shall be adjusted at the rates set forth in § 1064.53 applicable at the location of the nonpool plant from which the milk was received.

18. Section 1064.83 is revised to read as follows:

§ 1064.83 Producer-settlement fund.

The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund" into which he shall deposit all funds received pursuant to paragraph (a) of this section and out of which he shall make all payments required pursuant to paragraph (b) of this section.

(a) Payments made by handlers pursuant to § 1064.61 (a) and (b), and §§ 1064.84 and 1064.86.

(b) Payments due handlers pursuant to §§ 1064.85 and 1064.86: *Provided*, That payments due any handler shall be offset by payments due from such handler pursuant to §§ 1064.61, 1064.84, 1064.86, 1064.87 and 1064.88.

19. Section 1064.84 is revised to read as follows:

§ 1064.84 Payments to the producer-settlement fund.

On or before the 14th day after the end of the month each handler shall pay to the market administrator the amount, if any, by which the total amounts specified in paragraph (a) of this section exceed the amounts specified in paragraph (b) of this section:

(a) The total of the net pool obligation computed pursuant to § 1064.70 for such handler; and

(b) The sum of:

(1) The amount required to be paid producers by such handler pursuant to § 1064.80 before deductions authorized by the producer or for marketing services pursuant to § 1064.87; and

(2) The value at the weighted average price(s) applicable at the location of the plant(s) from which received (not to be less than the value at the Class II price) with respect to other source milk for which a value is computed pursuant to § 1064.70(e).

20. Section 1064.85 is revised to read as follows:

§ 1064.85 Payments out of the producer-settlement fund.

On or before the 14th day after the end of each month the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1064.84(b) exceeds the amount computed pursuant to § 1064.84(a). If at such time the balance in the producer-settlement fund is insufficient to make all payments pursuant to this paragraph, the market administrator shall reduce uniformly such payment and shall complete such payments as soon as the necessary funds are available.

21. Section 1064.88 is revised to read as follows:

§ 1064.88 Expense of administration.

As his pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 12th day after the end of the month two cents per hundredweight, or such lesser amount as the Secretary may prescribe, of (a) pro-

ducer milk (including such handler's own production), (b) other source milk allocated to Class I pursuant to § 1064.46(a) (3) and (7) and the corresponding steps of § 1064.46 (b), and (c) Class I milk disposed of from a partially regulated distributing plant except by a handler exempt pursuant to § 1064.60 on routes in the marketing area that exceeds Class I milk received during the month at such plant from pool plants and other order plants.

PART 1067—MILK IN OZARKS MARKETING AREA

1. Section 1067.7 is revised to read as follows:

§ 1067.7 Producer.

"Producer" means any person, other than a producer-handler as defined in any order (including this part) issued pursuant to the Act, who produces milk under a dairy farm permit issued by a health authority duly authorized to administer regulations governing the quality of milk disposed of in the marketing area or acceptable to agencies of the United States Government for fluid consumption in its institutions or bases in the marketing area which is (a) delivered from the farm to a pool plant, or (b) caused to be diverted from the farm to a nonpool plant (providing such nonpool plant is not subject to the classification and pricing provisions of another order issued pursuant to the Act) during any of the months of February through July, or to the extent of not more than 10 days' production during any of the months of August through January for the account of a handler. Milk so diverted shall be deemed to have been received at the pool plant from which diverted.

2. In § 1067.8, paragraph (a) is revised and a new paragraph (d) is added to read as follows:

§ 1067.8 Handler.

* * * * *

(a) Any person in his capacity as the operator of (1) a pool plant, or (2) a partially regulated distributing plant;

* * * * *

(d) A producer-handler, or any person who operates an other order plant described in § 1067.62.

3. Section 1067.12 is revised to read as follows:

§ 1067.12 Nonpool plant.

"Nonpool plant" means any milk receiving, manufacturing or processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant, from which fluid milk products labeled Grade A in consumer-type packages or dispenser units are distributed in the marketing area during the month.

(d) "Unregulated supply plant" means a nonpool plant (other than a producer-handler plant or an other order plant) from which milk, skim milk or cream acceptable to an appropriate health authority for distribution in the marketing area under a Grade A label is shipped to a pool plant.

4. A new § 1067.17 is added to read as follows:

§ 1067.17 Fluid milk product.

"Fluid milk product" means milk, skim milk, buttermilk, milk drinks (plain or flavored), cream (fresh or sour) and mixtures of fresh milk, skim milk and cream (except aerated cream, ice cream mix or eggnog).

4a. In § 1067.22, additional paragraphs (l), (m), and (n) are added and read as follows:

§ 1067.22 Duties.

* * * * *

(l) Whenever required for purpose of allocating receipts from other order plants pursuant to § 1067.46(a)(8) and the corresponding step of § 1067.46(b), the market administrator shall estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose;

(m) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products from an other order plant, the classification to which such receipts are allocated pursuant to § 1067.46 pursuant to such report, and thereafter any change in such allocation required to

correct errors disclosed in verification of such report; and

(n) Furnish to each handler operating a pool plant who has shipped fluid milk products to an other order plant, the classification to which the skim milk and butterfat in such fluid milk products were allocated by the market administrator of the other order on the basis of the report of the receiving handler; and, as necessary, any changes in such classification arising in the verification of such report.

5. In § 1067.30, the introductory paragraph is revised to read as follows:

§ 1067.30 Reports of receipts and utilization.

On or before the 6th day after the end of each month each handler who operates a pool plant and each cooperative association in its capacity as a handler pursuant to § 1067.8 (b) and (c) shall report to the market administrator in the detail and on forms prescribed by the market administrator the following information. Each handler specified in § 1067.8(a)(2) who operates a partially regulated distributing plant shall report the same information except that receipts in Grade A milk shall be reported in lieu of those in producer milk; such report shall include a separate statement showing the respective amounts of skim milk and butterfat disposed of in the marketing area as Class I milk:

§ 1067.31 [Amendment]

6. In § 1067.31 the reference in the introductory paragraph to "§ 1067.61(a)" is changed to "1067.61(b)".

7. Section 1067.32 is revised to read as follows:

§ 1067.32 Other reports.

Each producer-handler shall make reports to the market administrator at such time and in such manner as the market administrator shall request.

8. Section 1067.41 is revised to read as follows:

§ 1067.41 Classes of utilization.

Subject to the conditions set forth in §§ 1067.43 and 1067.44, the classes of utilization shall be as follows:

(a) Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of fluid milk products, except those classified pursuant to paragraph (b) (2) and (3) of this section. Fluid milk products which have been fortified by the addition of nonfat solids shall be Class I only up to the weight of an equal volume of an unmodified fluid milk product of the same nature and butterfat content.

(2) Not specifically accounted for as Class II.

(b) Class II milk shall be all skim milk and butterfat:

(1) Used to produce any product other than those specified as Class I in paragraph (a) of this section;

(2) In inventory of products designated as Class I milk in § 1067.41(a) on hand at the end of the month;

(3) Contained in that portion of fluid milk products which have been fortified by the addition of nonfat solids and which are not classified as Class I milk pursuant to paragraph (a) of this section;

(4) In shrinkage of skim milk and butterfat, respectively, assigned pursuant to § 1067.42(b)(1), but not to exceed the following:

(i) Two percent of milk received directly from producers (except producer milk diverted in producer cans to a nonpool plant pursuant to § 1067.7) and from a cooperative association which is the handler for such milk pursuant to § 1067.8(b); plus

(ii) One and one-half percent of milk received in bulk tank lots from pool plants of other handlers; plus

(iii) One and one-half percent of receipts of fluid milk products in bulk from other order plants, exclusive of the quantity for which Class II utilization was requested by the operators of such plants and the handler; plus

(iv) One and one-half percent of receipts of fluid milk products in bulk from unregulated supply plants, exclusive of the quantity for which Class II utilization was requested by the handler; less

(v) One and one-half percent of milk disposed of in bulk tank lots to pool plants of other handlers; and

(5) In shrinkage of skim milk and butterfat, respectively, assigned pursuant to § 1067.42(b)(2).

9. In § 1067.42, paragraph (b) is revised to read as follows:

§ 1067.42 Shrinkage.

* * * * *

(b) Prorate the resulting amounts between (1) the receipts of skim milk and butterfat in the net quantity of milk from producers, from cooperative associations pursuant to § 1067.8(b), from pool plants of other handlers in bulk tanks, from other order plants and unregulated supply plants (exclusive of the quantities received from other order plants and unregulated supply plants for which Class II utilization was requested by the handlers); and (2) the receipts of skim milk and butterfat in other source milk except that specified in subparagraph (1) of this paragraph.

10. Section 1067.44 is revised to read as follows:

§ 1067.44 Transfers.

Skim milk or butterfat transferred or diverted in the form of a fluid milk product shall be classified:

(a) At the utilization indicated by both handlers, otherwise as Class I milk, if transferred to the pool plant of another handler, subject to the following conditions:

(1) The skim milk or butterfat so assigned to either class shall be limited to the amount thereof remaining in such class in the transferee plant after computations pursuant to § 1067.46(a)(8) and the corresponding step of § 1067.46(b);

(2) If the transferor handler received during the month other source milk to be allocated pursuant to § 1067.46(a)(3), and the corresponding step of § 1067.46(b), the skim milk and butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor handler received during the month other source milk to be allocated pursuant to § 1067.46(a)(7) or (8) and the corresponding steps of (b), the skim milk and butterfat so transferred up to the total of such receipts shall not be classified as Class I milk to a greater extent than would be applicable to a like quantity of such other source milk received at the transferee plant.

(b) As Class I milk, if transferred to a producer-handler;

(c) As Class I milk, if transferred or diverted to a nonpool plant that is neither an other order plant nor a producer-handler plant, located more than 100 miles by the shortest highway distance as determined by the market administrator, from the nearest point in the marketing area except that cream so transferred may be classified as Class II if:

(1) Such cream is transferred without Grade A certification of any health authority;

(2) The handler claims Class II in his report submitted to the market administrator pursuant to § 1067.30 on or before the 6th day after the end of the month within which such transaction occurred;

(3) The buyer maintains books and records showing the utilization of all skim milk and butterfat at his plant which are made available if requested by the market administrator for the purpose of verification; and

(4) Not less than an equivalent amount of skim milk and butterfat was actually used as Class II milk in such buyer's plant.

(d) As Class I milk, if transferred or diverted in bulk to a nonpool plant that is neither an other order plant nor a producer-handler plant, located not more than 100 miles, by the shortest highway distance as determined by the market administrator from the nearest point in the marketing area unless the requirements of subparagraphs (1) and (2) of this paragraph are met, in which case the skim milk and butterfat so transferred or diverted shall be classified in accordance with the assignment resulting from subparagraph (3) of this paragraph:

(1) The transferring or diverting handler claims classification pursuant to the assignment set forth in subparagraph (3) of this paragraph in his report submitted to the market administrator pursuant to § 1067.30 for the month within which such transaction occurred;

(2) The operator of such nonpool plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for the purpose of verification; and

(3) The skim milk and butterfat so transferred shall be classified on the basis of the following assignment of utilization at such nonpool plant in excess of receipts of packaged fluid milk products from all pool plants and other order plants:

(1) Any Class I utilization disposed of on routes in the marketing area shall be

first assigned to the skim milk and butterfat in the fluid milk products so transferred or diverted from pool plants, next pro rata to receipts from other order plants and thereafter to receipts from dairy farmers who the market administrator determines constitute the regular sources of supply of Grade A milk for such nonpool plant;

(ii) Any Class I utilization disposed of on routes in the marketing area of another order issued pursuant to the Act shall be first assigned to receipts from plants fully regulated by such order, next pro rata to receipts from pool plants and other order plants not regulated by such order, and thereafter to receipts from dairy farmers who the market administrator determines constitute regular sources of supply of Grade A milk for such nonpool plant;

(iii) Class I utilization in excess of that assigned pursuant to subdivisions (i) and (ii) of this subparagraph shall be assigned first to remaining receipts from dairy farmers who the market administrator determines constitute the regular source of supply of Grade A milk for such nonpool plant and Class I utilization in excess of such receipts shall be assigned pro rata to unassigned receipts at such nonpool plant from all pool and other order plants; and

(iv) To the extent that Class I utilization is not so assigned to it, the skim milk and butterfat so transferred shall be classified as Class II milk;

(e) As follows, if transferred to an other order plant in excess of receipts from such plant in the same category as described in subparagraph (1), (2) or (3) of this paragraph:

(1) If transferred in packaged form, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated as a fluid milk product under the other order (including allocation under the conditions set forth in subparagraph (3) of this paragraph);

(3) If the operators of both the transferor and transferee plants so request in the reports of receipts and utilization filed with their respective market administrators, transfers in bulk form shall be classified as Class II to the extent of the Class II utilization (or comparable utilization under such other order) available for such assignment pursuant to the allocation provisions of the transferee order;

(4) If information concerning the classification to which allocated under the other order is not available to the market administrator for purposes of establishing classification pursuant to this paragraph, classification shall be as Class I, subject to adjustment when such information is available;

(5) For purposes of this paragraph, if the transferee order provides for more than two classes of utilization, milk allocated to a class consisting primarily of fluid milk products shall be classified as Class I, and milk allocated to other classes shall be classified as Class II; and

(6) If the form in which any fluid milk product is transferred to an other order plant is not defined as a fluid milk product under such other order, classification shall be in accordance with the provisions of § 1067.41.

11. Section 1067.46 is revised to read as follows:

§ 1067.46 Allocation of skim milk and butterfat classified.

After making the computations pursuant to § 1067.45, the market administrator shall determine the classification of producer milk for each handler as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class II the pounds of skim milk classified as Class II pursuant to § 1067.41(b)(4);

(2) Subtract from the remaining pounds of skim milk in each class the pounds of skim milk in fluid milk products received in packaged form from other order plants as follows:

(i) From Class II milk, the lesser of the pounds remaining or two percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(3) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class II, the pounds of skim milk in each of the following:

(i) Other source milk in a form other than that of a fluid milk product;

(ii) Receipts of fluid milk products for which Grade A certification is not established, or which are from unidentified sources; and

(iii) Receipts of fluid milk products from a producer-handler, as defined under this or any other Federal order;

(4) Subtract, in the order specified below, from the pounds of skim milk remaining in Class II but not in excess of such quantity:

(i) Receipts of fluid milk products from unregulated supply plants and dairy farmers who are not producers:

(*a*) For which the handler requests Class II utilization; or

(*b*) Which are in excess of the pounds of skim milk determined by multiplying the pounds of skim milk remaining in Class I milk by 1.25 and subtracting the sum of the pounds of skim milk in producer milk, receipts from other pool handlers, and receipts in bulk from other order plants;

(ii) Receipts of fluid milk products in bulk from an other order plant in excess of similar transfers to such plant, if Class II utilization was requested by the operator of such plant and the handler;

(5) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class II, the pounds of skim milk in inventory of fluid milk products on hand at the beginning of the month;

(6) Add to the remaining pounds of skim milk in Class II milk the pounds subtracted pursuant to subparagraph (1) of this paragraph;

(7) Subtract from the pounds of skim milk remaining in each class, pro rata to such quantities, the pounds of skim milk in receipts of fluid milk products from unregulated supply plants and dairy farmers who are not producers which were not subtracted pursuant to subparagraph (4)(i) of this paragraph;

(8) Subtract from the pounds of skim milk remaining in each class, in the following order, the pounds of skim milk in receipts of fluid milk products in bulk from an other order plant(s), in excess in each case of similar transfers to the same plant, which were not subtracted pursuant to subparagraph (4)(ii) of this paragraph:

(i) In series beginning with Class II, the pounds determined by multiplying the pounds of such receipts by the larger of the percentage of estimated Class II utilization of skim milk announced for the month by the market administrator pursuant to § 1067.22(1) or the percentage that Class II utilization remaining is of the total remaining utilization of skim milk of the handler; and

(ii) From Class I, the remaining pounds of such receipts;

(9) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk received in fluid milk products from other handlers according to the classification assigned pursuant to § 1067.44(a); and

(10) If the pounds of skim milk remaining in both classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class II. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) Combine the amounts of skim milk and butterfat determined pursuant to paragraphs (a) and (b) of this section into one total for each class and determine the weighted average butterfat content of producer milk in each class.

12. Section 1067.53 is revised to read as follows:

§ 1067.53 Location adjustments to handlers.

(a) For milk received from producers at a pool plant located outside the marketing area, and for other source milk for which a location adjustment credit is applicable, the Class I price for such milk shall be 1.5 cents less per hundredweight for each 10 miles or fraction thereof that such plant is from the nearest point in the marketing area than the Class I price. For the purpose of this section, the distance which a plant is from the nearest place in the marketing area shall be the shortest highway distance as determined by the market administrator.

(b) For purposes of calculating such adjustment, transfers between pool plants shall be assigned Class I disposition at the transferee plant, in excess of the sum of receipts at such plant from producers and cooperative associations pursuant to § 1067.8(b), and the volume assigned as Class I to receipts from other order plants and unregulated supply plants, such assignment to be made

first to transferor plants at which no location adjustment credit is applicable and then in sequence beginning with the plant at which the least location adjustment would apply.

13. Section 1067.61 is revised to read as follows:

§ 1067.61 Obligations of handler operating a partially regulated distributing plant.

Each handler who operates a partially regulated distributing plant shall pay to the market administrator for the producer-settlement fund on or before the 25th day after the end of the month either of the amounts (at the handler's election) calculated pursuant to paragraph (a) or (b) of this section. If the handler fails to report pursuant to §§ 1067.30 and 1067.31 the information necessary to compute the amount specified in paragraph (a) of this section, he shall pay the amount computed pursuant to paragraph (b) of this section:

(a) An amount computed as follows:

(1) (i) The obligation that would have been computed pursuant to § 1067.70 at such plant shall be determined as though such plant were a pool plant. For purposes of such computation, receipts at such nonpool plant from a pool plant or an other order plant shall be assigned to the utilization at which classified at the pool plant or other order plant and transfers from such nonpool plant to a pool plant or an other order plant shall be classified as Class II milk if allocated to such class at the pool plant or other order plant and be valued at the weighted average price of the respective order if so allocated to Class I milk. There shall be included in the obligation so computed a charge in the amount specified in § 1067.70(e) and a credit in the amount specified in § 1067.84(b)(2) with respect to receipts from an unregulated supply plant, unless an obligation with respect to such plant is computed as specified below in this subparagraph.

(ii) If the operator of the partially regulated distributing plant so requests, and provides with his reports pursuant to §§ 1067.30 and 1067.31 similar reports with respect to the operations of any other nonpool plant which serves as a supply plant for such partially regulated distributing plant by shipments to such plant during the month equivalent to the requirements of § 1067.11(b) with agreement of the operator of such plant that the market administrator may examine the books and records of such plant for purposes of verification of such reports, there will be added the amount of the obligation computed at such nonpool supply plant in the same manner and subject to the same conditions as for the partially regulated distributing plant.

(2) From this obligation there will be deducted the sum of (i) the gross payments made by such handler for Grade A milk received during the month from dairy farmers at such plant and like payments made by the operator of a supply plant(s) included in the computations pursuant to subparagraph (1) of this paragraph, and (ii) any payments to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant.

(b) An amount computed as follows:

(1) Determine the respective amounts of skim milk and butterfat disposed of as Class I milk in the marketing area:

(2) Deduct the respective amounts of skim milk and butterfat received as Class I milk at the partially regulated distributing plant from pool plants and other order plants, except that deducted under a similar provision of another order issued pursuant to the Act;

(3) Combine the amounts of skim milk and butterfat remaining into one total and determine the weighted average butterfat content; and

(4) From the value of such milk at the Class I price applicable at the location of the nonpool plant, subtract its value at the weighted average price applicable at such location or the Class II price, whichever is higher.

14. Section 1067.70 is revised to read as follows:

§ 1067.70 Computation of the net pool obligation of each pool handler.

The net pool obligation of each pool handler during each month shall be a sum of money computed by the market administrator as follows:

(a) Multiply the quantity of producer milk in each class, as computed pursuant to § 1067.46(c), by the applicable class prices (adjusted pursuant to §§ 1067.52 and 1067.53);

(b) Add the amount obtained from multiplying the pounds of overage deducted from each class pursuant to § 1067.46(a)(10) and the corresponding step of § 1067.46(b) by the applicable class prices;

(c) Add the amount obtained from multiplying the difference between the Class II price for the preceding month and the Class I price for the current month by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1067.46(a)(5) and the corresponding step of § 1067.46(b);

(d) Add an amount equal to the difference between the value at the Class I price applicable at the pool plant and the value at the Class II price, with respect to skim milk and butterfat in other source milk subtracted from Class I pursuant to § 1067.46(a)(3) and the corresponding step of § 1067.46(b);

(e) Add an amount equal to the value at the Class I price adjusted for location of the nearest nonpool plant(s) from which an equivalent volume of skim milk and butterfat was received from an unregulated supply plant which volume of skim milk and butterfat is subtracted from Class I pursuant to § 1067.46(a)(7) and the corresponding step of § 1067.46(b). With respect to skim milk and butterfat which is received from dairy farmers who are not producers and which is subtracted from Class I pursuant to § 1067.46(a)(7) and the corresponding step of § 1067.46(b), add an amount equal to its value at the Class I price applicable at the pool plant.

15. Section 1067.71 is revised to read as follows:

§ 1067.71 Computation of uniform prices.

For each month the market administrator shall compute the uniform price per hundredweight of milk received from producers as follows:

(a) Combine into one total the values computed pursuant to § 1067.70 for all handlers who filed the reports prescribed by § 1067.30 for the month and who made the payments pursuant to §§ 1067.80 and 1067.84 for the preceding month;

(b) Add an amount equal to the total value of the location differentials computed pursuant to § 1067.82 (a) and (c) and subtract an amount equal to the total payments to be made pursuant to § 1067.82(b);

(c) Subtract, if the average butterfat content of the milk specified in paragraph (e) of this section is more than 3.5 percent, or add, if such butterfat content is less than 3.5 percent, an amount computed by multiplying the amount by which the average butterfat content of such milk varies from 3.5 percent by the butterfat differential computed pursuant to § 1067.81 and multiplying the result by the total hundredweight of such milk;

(d) Add an amount equal to not less than one-half of the unobligated balance in the producer-settlement fund;

(e) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk;

(2) The total hundredweight for which a value is computed pursuant to § 1067.70(e);

(f) Subtract not less than four cents nor more than five cents per hundredweight. The result shall be the "weighted average price", and, except for the months specified below, shall be the "uniform price" for milk received from producers;

(g) For the months specified in paragraphs (h) and (i) of this section, subtract from the amount resulting from the computations pursuant to paragraphs (a) through (d) of this section an amount computed by multiplying the hundredweight of milk specified in subparagraph (e)(2) of this section by the weighted average price;

(h) Subtract during each of the months of April, May, June and July an amount equal to ten cents per hundredweight on the total amount of producer milk included in these computations to be retained in the producer-settlement fund and disbursed according to the provisions of paragraph (i) of this section;

(i) Add during each of the months of October, November and December, one-third of the total amount subtracted pursuant to paragraph (h) of this section;

(j) Divide the resulting sum by the total hundredweight of producer milk included in these computations; and

(k) Subtract not less than four cents nor more than five cents per hundredweight. The result shall be the "uniform price" for milk received from producers.

16. Section 1067.82 is revised by changing the heading thereof and adding a new paragraph (c) to read as follows:

§ 1067.82 Location differentials to producers and on nonpool milk.

* * * * *

(c) For purposes of computations pursuant to §§ 1067.84 and 1067.85 the weighted average price shall be adjusted at the rates set forth in paragraph (a) of this section applicable at the location of the nonpool plant from which the milk was received.

17. Section 1067.84 is revised to read as follows:

§ 1067.84 Payments to the producer-settlement fund.

On or before the 12th day after the end of the month each handler shall pay to the market administrator the amount, if any, by which the total amounts specified in paragraph (a) of this section exceed the amounts specified in paragraph (b) of this section: *Provided,* That to this amount shall be added one-half of one percent of any amount due the market administrator pursuant to this section for each month or any portion thereof that such payment is overdue. Such payment shall be considered to be overdue on the 15th day after the end of the month to which the obligation applies:

(a) The total of the net pool obligation computed pursuant to § 1067.70 for such handler; and

(b) The sum of

(1) The value of such handler's producer milk at the applicable uniform price specified in § 1067.80; and

(2) The value at the weighted average price(s) adjusted where applicable at the location of the plant(s), from which received (not to be less than the value at the Class II price) with respect to other source milk for which a value is computed pursuant to § 1067.70(e).

18. Section 1067.85 is revised to read as follows:

§ 1067.85 Payments out of the producer-settlement fund.

On or before the 14th day after the end of each month the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1067.84(b) exceeds the amount computed pursuant to § 1067.84(a): *Provided,* That if the unobligated balance in the producer-settlement fund is insufficient to make full payment to all handlers entitled to payment pursuant to this paragraph, the market administrator shall reduce such payments at a uniform rate and shall complete such payments as soon as the appropriate funds are available: *And provided further,* That the market administrator may deduct from payments due handlers pursuant to this section any unpaid balance due the market administrator from such handler pursuant to §§ 1067.84, 1067.86, 1067.87(a) and 1067.88.

19. Section 1067.88 is revised to read as follows:

§ 1067.88 Expense of administration.

As his pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 15th day after the end of the month five cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect to (a) producer milk (including such handler's own production), (b) other source milk allocated to Class I pursuant to § 1067.46(a) (3) and (7) and the corresponding steps of § 1067.46 (b), and (c) packaged Class I milk disposed of from a partially regulated distributing plant in the marketing area that exceeds Class I milk received during the month at such plant form pool plants and other order plants.

PART 1068—MILK IN MINNEAPOLIS-ST. PAUL, MINN., MARKETING AREA

1. Section 1068.10 is revised to read as follows:

§ 1068.10 Nonpool plant.

"Nonpool plant" means any milk receiving, manufacturing or processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant and from which fluid milk products eligible for sale as Grade A in consumer-type packages or dispenser units are distributed on routes in the marketing area during the month.

(d) "Unregulated supply plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant and from which a Grade A fluid milk product is shipped during the month to a pool plant.

2. Section 1068.11 is revised to read as follows:

§ 1068.11 Producer.

"Producer" means any person, other than a producer-handler as defined in any order (including this part) issued pursuant to the Act, who produces milk in compliance with the Grade A inspection requirements of a duly constituted health authority, and whose milk is:

(a) Received from the farm at a pool plant; or

(b) Moved in accordance with the conditions of § 1068.44(c) but allotted to a pool plant by listing on the payroll report of such plant pursuant to § 1068.32, which milk shall be deemed to be received at such pool plant: *Provided,* That any such person whose milk is received from the farm at a pool plant during any portion of the period July through October, inclusive, but subsequently in such four-month period is received at a nonpool plant (except as provided above in this paragraph) shall not regain status as a producer prior to the next July 1.

3. Section 1068.13 is revised to read as follows:

§ 1068.13 Handler.

* * * * *

(a) * * *

(b) Any person in his capacity as the operator of a partially regulated distributing plant. This definition shall not apply to a governmentally owned and operated institution which disposes of Class I milk solely for use on its own premises or to its own facilities;

(c) Any person in his capacity as the operator of an other order plant from which during the month fluid milk products are either distributed on routes in the marketing area or shipped to a pool plant; or

(d) A producer-handler.

4. Section 1068.16 is revised to read as follows:

§ 1068.16 Other source milk.

"Other source milk" means all skim milk and butterfat:

(a) Other than that contained in producer milk or received from a pool plant(s); and

(b) Contained in products other than fluid milk products from any source (including those produced at the plant) which are reprocessed, converted into, or combined with another product in the plant during the month.

5. A new § 1068.19 is added to read as follows:

§ 1068.19 Fluid milk product.

"Fluid milk product" means milk, skim milk, concentrated milk, buttermilk, flavored milk, flavored milk drinks (except any such item disposed of as animal feed and sterilized milk, cream or milk drinks in metal containers hermetically sealed), cream (sweet or sour, including "Smetana" and similar sour cream products and mixtures of cream and milk or skim milk containing less butterfat than the legal standard for cream).

6. In § 1068.22, additional paragraphs (i), (j) and (k) are added and read as follows:

§ 1068.22 Duties.

* * * * *

(i) Whenever required for purpose of allocating receipts from other order plants pursuant to § 1068.46(a)(5) and the corresponding step of § 1063.46(b), the market administrator shall estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose;

(j) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products from an other order plant, the classification to which such receipts are allocated pursuant to § 1068.46 pursuant to such report, and thereafter any change in such allocation required to correct errors disclosed in verification of such report; and

(k) Furnish to each handler operating a pool plant who has shipped fluid milk products to an other order plant, the classification to which the skim milk and butterfat in such fluid milk products were allocated by the market administrator of the other order on the basis of the report of the receiving handler; and, as necessary, any changes in such classification arising in the verification of such report.

7. Section 1068.30 is revised to read as follows:

§ 1068.30 Monthly reports of receipts and utilization.

* * * * *

(b) Each handler specified in § 1068.13 (b) who operates a partially regulated distributing plant shall report as required in paragraph (a) of this section, except that receipts in Grade A milk shall be reported in lieu of those in producer milk. Such report shall include a separate statement showing the respective amounts of skim milk and butterfat disposed of on routes (other than to pool plants) in the marketing area as Class I milk.

8. Section 1068.41 (a) and (b) is revised to read as follows:

§ 1068.41 Classes of utilization.

* * * * *

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in fluid form (except as provided in paragraph (b) (3) and (4) of this section) as milk, skim milk (including reconstituted skim milk), concentrated milk, buttermilk, flavored milk, flavored milk drinks (except any such item disposed of as animal feed and sterilized milk, cream or milk drinks in metal containers hermetically sealed), cream (sweet or sour), including "Smetana" and similar sour cream products and mixtures of cream and milk or skim milk containing less butterfat than the legal standard for cream;

(2) In shrinkage of:

(i) Producer milk;

(ii) Plus fluid milk products in bulk from other order plants, exclusive of the quantity for which Class II utilization was requested by the operators of both plants;

(iii) Plus fluid milk products in bulk from unregulated supply plants, exclusive of the quantity for which Class II utilization was requested by the handler; and

(iv) Less fluid milk products transferred in bulk to other order plants; and

(3) Not accounted for as Class II milk.

(b) *Class II milk.* Class II milk shall be:

(1) Skim milk and butterfat used to produce a milk product other than those specified in paragraph (a) of this section;

(2) Skim milk and butterfat stored in a public cold storage warehouse as frozen cream;

(3) Skim milk and butterfat contained in any item included under paragraph (a) of this section disposed of as animal feed;

(4) Skim milk represented by the nonfat milk solids added to a fluid milk product which is in excess of the weight of an equivalent volume of the fluid milk products prior to such addition; and

(5) In shrinkage of skim milk and butterfat, respectively, assigned pursuant to § 1068.42(b)(2).

9. Section 1068.42 is revised to read as follows:

§ 1068.42 Shrinkage.

* * * * *

(b) Prorate the resulting amounts between the receipts of skim milk and butterfat contained in:

(1) The net quantity of producer milk and other fluid milk products specified in § 1068.41(a)(2); and

(2) Other source milk exclusive of that specified in § 1068.41(a)(2).

10. Section 1068.44 is revised to read as follows:

§ 1068.44 Transfers.

Skim milk or butterfat in the form of a fluid milk product shall be classified:

(a) At the utilization indicated by the operators of both plants, otherwise as Class I milk, if transferred from a pool plant to the pool plant of another handler, subject in either event to the following conditions:

(1) The skim milk or butterfat so assigned to either class shall be limited to the amount thereof remaining in such class in the transferee plant after computations pursuant to § 1068.46(a)(5) and the corresponding step of § 1068.46 (b);

(2) If the transferor plant received during the month other source milk to be allocated pursuant to § 1068.46(a)(2), the skim milk and butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor handler received during the month other source milk to be allocated pursuant to § 1068.46(a)(4) or (5) and the corresponding steps of § 1068.46(b), the skim milk and butterfat so transferred up to the total of such receipts shall not be classified as Class I milk to a greater extent than would be applicable to a like quantity of such other source milk received at the transferee plant;

(b) As Class I milk, if transferred from a pool plant to a producer-handler;

(c) As Class I milk if moved to a nonpool plant by a cooperative association directly from the farm of the producer and the nonpool plant is one from which milk is disposed of in fluid form on routes;

(d) As Class I milk, if transferred to a nonpool plant that is neither an other order plant nor a producer-handler plant and is located more than 100 miles from the Minnesota Transfer Viaduct over University Avenue in St. Paul, Minnesota;

(e) As Class I milk, if transferred in bulk to a nonpool plant that is neither an other order plant nor a producer-handler plant and is not more than 100 miles from the Minnesota Transfer Viaduct over University Avenue in St. Paul, Minnesota, unless the requirements of subparagraphs (1) and (2) of this paragraph are met, in which case the skim milk and butterfat so transferred shall be classified in accordance with the assignment resulting from subparagraph (3) of this paragraph:

(1) The transferring handler claims classification pursuant to the assignment set forth in subparagraph (3) of this paragraph in his report submitted to the market administrator pursuant to § 1068.30 for the month within which such transaction occurred;

(2) The operator of such nonpool plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for the purpose of verification; and

(3) The skim milk and butterfat so transferred shall be classified on the basis of the following assignment of utilization at such nonpool plant in excess of receipts of packaged fluid milk products from all pool plants and other order plants:

(i) Any Class I utilization disposed of on routes in the marketing area shall be first assigned to the skim milk and butterfat in the fluid milk products so transferred from pool plants, next pro rata to receipts from other order plants and thereafter to receipts from dairy farmers who the market administrator determines constitute regular sources of supply of Grade A milk for such nonpool plant;

(ii) Any Class I utilization disposed of on routes in the marketing area of another order issued pursuant to the Act shall be first assigned to receipts from plants fully regulated by such order, next pro rata to receipts from pool plants and other order plants not regulated by such order, and thereafter to receipts from dairy farmers who the market administrator determines constitute regular sources of supply for such nonpool plant;

(iii) Class I utilization in excess of that assigned pursuant to subdivisions (i) and (ii) of this subparagraph shall

be assigned first to remaining receipts from dairy farmers who the market administrator determines constitute the regular source of supply for such nonpool plant and Class I utilization in excess of such receipts shall be assigned pro rata to unassigned receipts at such nonpool plant from all pool and other order plants; and

(iv) To the extent that Class I utilization is not so assigned to it, the skim milk and butterfat so transferred shall be classified as Class II milk;

(f) As follows, if transferred to an other order plant in excess of receipts from such plant in the same category as described in subparagraph (1), (2) or (3) of this paragraph:

(1) If transferred in packaged form, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated as a fluid milk product under the other order (including allocation under the conditions set forth in subparagraph (3) of this paragraph);

(3) If the operators of both the transferor and transferee plants so request in the reports of receipts and utilization filed with their respective market administrators, transfers in bulk form shall be classified as Class II to the extent of the Class II utilization (or comparable utilization under such other order) available for such assignment pursuant to the allocation provisions of the transferee order;

(4) If information concerning the classification to which allocated under the other order is not available to the market administrator for purposes of establishing classification pursuant to this paragraph, classification shall be as Class I, subject to adjustment when such information is available;

(5) For purposes of this paragraph, if the transferee order provides for more than two classes of utilization, milk allocated to a class consisting primarily of fluid milk products shall be classified as Class I, and milk allocated to other classes shall be classified as Class II; and

(6) If the form in which any fluid milk products is transferred to an other order plant is not defined as a fluid milk product under such other order, classification shall be in accordance with the provisions of § 1068.41.

11. Section 1068.46 is revised to read as follows:

§ 1068.46 Allocation of skim milk and butterfat classified.

After making the computations pursuant to § 1068.45, the market administrator shall determine the classification of producer milk for each handler as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the pounds of skim milk in each class the pounds of skim milk in fluid milk products received in packaged form from other order plants as follows:

(i) From Class II milk, the lesser of the pounds remaining or two percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(2) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class II, the pounds of skim milk in each of the following:

(i) Other source milk in a form other than that of a fluid milk product;

(ii) Receipts of fluid milk products for which Grade A certification is not established, or which are from unidentified sources; and

(iii) Receipts of fluid milk products from a producer-handler, as defined under this or any other Federal order;

(3) Subtract, in the order specified below, from the pounds of skim milk remaining in Class II, but not in excess of such quantity:

(i) Receipts of fluid milk products from an unregulated supply plant:

(*a*) For which the handler requests Class II utilization; or

(*b*) Which are in excess of the pounds of skim milk determined by subtracting from 125 percent of the pounds of skim milk remaining in Class I milk the sum of the pounds of skim milk in producer milk, receipts from a cooperative association as a handler pursuant to the proviso of § 1068.13(a), receipts from pool plants of other handlers, and receipts in bulk from other order plants; and

(ii) Receipts of fluid milk products in bulk from an other order plant in excess of similar transfers to such plant, if Class II utilization was requested by the operator of such plant and the handler;

(4) Subtract from the pounds of skim milk remaining in each class, pro rata to such quantities, the pounds of skim milk in receipts of fluid milk products from unregulated supply plants which were not subtracted pursuant to subparagraph (3)(i) of this paragraph;

(5) Subtract from the pounds of skim milk remaining in each class, in the following order, the pounds of skim milk in receipts of fluid milk products in bulk from an other order plant(s), in excess in each case of similar transfers to the same plant, which were not subtracted pursuant to subparagraph (3)(ii) of this paragraph:

(i) In series beginning with Class II, the pounds determined by multiplying the pounds of such receipts by the larger of the percentage of estimated Class II utilization of skim milk announced for the month by the market administrator pursuant to § 1068.22(i) or the percentage that Class II utilization remaining is of the total remaining utilization of skim milk of the handler; and

(ii) From Class I, the remaining pounds of such receipts;

(6) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk received in fluid milk products from other pool plants according to the classification assigned pursuant to § 1068.44(a);

(7) If the pounds of skim milk remaining in both classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class II. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) Combine the amounts of skim milk and butterfat determined pursuant to paragraphs (a) and (b) of this section into one total for each class and determine the weighted average butterfat content of producer milk in each class.

12. Section 1068.55 is revised to read as follows:

§ 1068.55 Location differential to handlers.

The Class I price for producer milk and other source milk (for which a location adjustment is applicable) at a plant shall be reduced by the amount indicated below for the distance that such plant is located from the Minnesota Transfer Viaduct over University Avenue in St. Paul, Minnesota. Such deduction shall be based on the airline mileage as computed by the market administrator.

Location of Plant and Amount of Deduction

Miles:	Cents
0 to 15	0
15 to 20	8
20 to 30	10
30 to 40	12
40 to 50	14
50 to 60	15
60 to 70	16
70 or over	[1] 17

[1] Plus an additional 1 cent for each 10 miles or fraction thereof in excess of 80 miles.

§ 1068.63 [Redesignation]

13. Section 1068.63 is revoked and § 1068.64 is redesignated § 1068.63.

14. A new § 1068.64 is added to read as follows:

§ 1068.64 Obligations of handler operating a partially regulated distributing plant.

Each handler who operates a partially regulated distributing plant shall pay to the market administrator for the producer-settlement fund on or before the 25th day after the end of the month either of the amounts (at the handler's election) calculated pursuant to paragraph (a) or (b) of this section. If the handler fails to report pursuant to § 1068.30(b) and the information necessary to compute the amount specified in paragraph (a) of this section, he shall pay the amount computed pursuant to paragraph (b) of this section:

(a) An amount computed as follows:

(1)(i) The obligation that would have been computed pursuant to § 1068.70 at such plant shall be determined as though such plant were a pool plant. For purposes of such computation, receipts at such nonpool plant from a pool plant or an other order plant shall be assigned to the utilization at which classified at the pool plant or other order plant and transfers from such nonpool plant to a pool plant or an other order plant shall be classified as Class II milk if allocated to such class at the pool plant or other order plant and be valued at the uniform price of the respective order if so allocated to Class I milk. There shall be

included in the obligation so computed a charge in the amount specified in § 1068.70(d) and a credit in the amount specified in § 1068.84(b)(2) with respect to receipts from an unregulated supply plant, unless an obligation with respect to such plant is computed as specified below in this subparagraph.

(ii) If the operator of the partially regulated distributing plant so requests, and provides with his report pursuant to § 1068.30(b) a similar report with respect to the operations of any other nonpool plant which serves as a supply plant for such partially regulated distributing plant by shipments to such plant during the month equivalent to the requirements of § 1068.9(b), with agreement of the operator of such plant that the market administrator may examine the books and records of such plant for purposes of verification of such reports, there will be added the amount of the obligation computed at such nonpool supply plant in the same manner and subject to the same conditions as for the partially regulated distributing plant.

(2) From this obligation there will be deducted the sum of (i) the gross payments made by such handler for Grade A milk received during the month from dairy farmers at such plant and like payments made by the operator of a supply plant(s) included in the computations pursuant to subparagraph (1) of this paragraph, and (ii) any payments to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant.

(b) An amount computed as follows:

(1) Determine the respective amounts of skim milk and butterfat disposed of as Class I milk on routes (other than to pool plants) in the marketing area;

(2) Deduct (except that deducted under a similar provision of another order issued pursuant to the Act) the respective amounts of skim milk and butterfat received as Class I milk at the partially regulated distributing plant from pool plants and other order plants;

(3) Combine the amounts of skim milk and butterfat remaining into one total and determine the weighted average butterfat content; and

(4) From the value of such milk at the Class I price applicable at the location of the nonpool plant, subtract its value at the uniform price pursuant to § 1068.71 at the same location or at the Class II price, whichever is higher.

15. Section 1068.70 is revised to read as follows:

§ 1068.70 Computation of the net pool obligation of each pool handler.

The net pool obligation of each pool handler during each month shall be a sum of money computed by the market administrator as follows:

(a) Multiply the quantity of producer milk in each class (including any such milk caused to be delivered to such handler from the farms of producers for the account of a cooperative association), as computed pursuant to § 1068.46(c), by the applicable class prices;

(b) Add the amount obtained from multiplying the pounds of overage deducted from each class pursuant to § 1068.46(a)(7) and the corresponding step of § 1068.46(b) by the applicable class prices;

(c) Add an amount equal to the difference between the Class I and Class II price values at the pool plant of the skim milk and butterfat subtracted from Class I pursuant to § 1068.46(a)(2) and the corresponding step of § 1068.46(b); and

(d) Add the value at the Class I price, adjusted for location of the nearest nonpool plant(s) from which an equivalent volume was received, of the skim milk and butterfat subtracted from Class I pursuant to § 1068.46(a)(4) and the corresponding step of § 1068.46(b).

16. Section 1068.71 is revised to read as follows:

§ 1068.71 Computation of uniform price.

For each month the market administrator shall compute a uniform price as follows:

(a) Combine into one total the values computed pursuant to § 1068.70 for all handlers who filed reports pursuant to § 1068.30 for the month and who made the payments pursuant to §§ 1068.80 and 1068.84 for the preceding month;

(b) Subtract, if the average butterfat content of the milk specified in paragraph (e) of this section is more than 3.5 percent, or add, if such butterfat content is less than 3.5 percent, an amount computed by multiplying the amount by which the average butterfat content of such milk varies from 3.5 percent by the butterfat differential computed pursuant to § 1068.81 and multiplying the result by the total hundredweight of such milk;

(c) Add an amount equal to the total value of the location differentials computed pursuant to § 1068.82;

(d) Add an amount equal to not less than one-half of the unobligated balance in the producer-settlement fund;

(e) Divide the resulting amount by the sum of the following for all handlers included in these computations;

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1068.70(d); and

(f) Subtract not less than four cents nor more than five cents per hundredweight. The result shall be the "uniform price" for milk received from producers.

17. Section 1068.72(a) is revised to read as follows:

§ 1068.72 Computation of uniform price for base milk.

* * * * *

(a) Make the same computations required pursuant to § 1068.71(a) through (d) for producer milk only;

18. Section 1068.82 is revised to read as follows:

§ 1068.82 Location differentials to producers and on nonpool milk.

(a) In making payments pursuant to § 1068.80(b) and (c) for milk received at a pool plant, each handler shall deduct from the applicable price payable to such producers the amount indicated below for the distance that such pool plant is located from the Minnesota Transfer Viaduct over University Avenue in St. Paul, Minnesota. Such deduction shall be based on the airline mileage as computed by the market administrator:

Location of Plant and Amount of Deduction

Miles:	Cents
0 to 15	0
15 to 20	2
20 to 30	10
30 to 40	12
40 to 50	14
50 to 60	15
60 to 70	16
70 or over	[1] 17

[1] Plus an additional 1 cent for each 10 miles or fraction thereof in excess of 80 miles.

(b) For the purpose of computations pursuant to §§ 1068.84 and 1068.85, the uniform price shall be adjusted at the rates set forth in paragraph (a) of this section applicable at the location of the nonpool plant from which the milk was received.

§ 1068.83 [Amendment]

19. In § 1068.83 the reference "§§ 1068.84 and 1068.86" is deleted and "§§ 1068.64, 1068.84 and 1068.86" is substituted therefor.

20. Section 1068.84 is revised to read as follows:

§ 1068.84 Payments to the producer-settlement fund.

On or before the 16th day after the end of the month each handler shall pay to the market administrator the amount, if any, by which the total amounts specified in paragraph (a) of this section exceed the amounts specified in paragraph (b) of this section: *Provided,* That payment made by a cooperative association as a handler pursuant to this paragraph with respect to milk transferred to another handler from the pool plant of such cooperative association or caused to be delivered to such handler from the farms of producers for the account of such cooperative association shall not relieve the transferee handler of any obligation on any such milk which is due the cooperative association, or otherwise due pursuant to §§ 1068.80 through 1068.92, inclusive:

(a) The net pool obligation computed pursuant to § 1068.70 for such handler; and

(b) The sum of:

(1) The value of such handler's producer milk at the applicable uniform prices specified in § 1068.80; and

(2) The value at the weighted average price(s) applicable at the location of the plant(s), from which received (not to be less than the value at the Class II price) with respect to other source milk for which a value is computed pursuant to § 1068.70(d).

21. Section 1068.85 is revised to read as follows:

§ 1068.85 Payments out of the producer-settlement fund.

On or before the 17th day after the end of each month, the market administrator shall pay, subject to the proviso of § 1068.83, to each handler the amount,

if any, by which the amount computed pursuant to § 1068.84(b) exceeds the amount computed pursuant to § 1068.84(a).

22. Section 1068.90 is revised to read as follows:

§ 1068.90 Expense of administration.

As his pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 15th day after the end of the month three cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect to (a) producer milk (including such handler's own production), (b) other source milk allocated to Class I pursuant to § 1068.46(a)(2) and (4) and the corresponding steps of § 1068.46(b), and (c) Class I milk disposed of in the marketing area from partially regulated distributing plants that exceeds the hundredweight of Class I milk received during the month at such plant from pool plants and other order plants.

PART 1069—MILK IN THE DULUTH-SUPERIOR MARKETING AREA

1. Section 1069.8 is revised to read as follows:

§ 1069.8 Nonpool plant.

"Nonpool plant" means any milk receiving, manufacturing or processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant and from which Grade A fluid milk products in consumer-type packages or dispenser units are distributed on routes in the marketing area during the month.

(d) "Unregulated supply plant" means a nonpool plant that is a supply plant and is neither an other order plant nor a producer-handler plant.

2. Section 1069.9 is revised to read as follows:

§ 1069.9 Handler.

"Handler" means:

(a) Any person in his capacity as the operator of a pool plant.

(b) Any person who operates a partially regulated distributing plant.

(c) Any cooperative association with respect to the milk of producers which is diverted from a pool plant to a nonpool plant for the account of such cooperative association.

(d) Any cooperative association which chooses to report as a handler with respect to the milk of its member producers which is delivered to the pool plant of another handler in a tank truck owned or operated by or under contract to such cooperative association for the account of such cooperative association. Such milk shall be considered as having been received by such cooperative association at the plant to which it is delivered.

(e) Any person in his capacity as the operator of an other order plant that is either a distributing plant or a supply plant.

(f) A producer-handler.

3. Section 1069.10 is revised to read as follows:

§ 1069.10 Producer.

"Producer" means any person, other than a producer-handler as defined in any order (including this part) issued pursuant to the Act, who produces milk in compliance with the Grade A inspection requirements of, or acceptable to, a duly constituted health authority, and whose milk is (a) received at a pool plant, or (b) caused to be diverted from a pool plant to a nonpool plant by a handler or cooperative association for the account of such handler or cooperative association. Milk so diverted shall be deemed to have been received by the diverting handler at the plant from which it was diverted.

4. A new § 1069.16 is added to read as follows:

§ 1069.16 Distributing plant.

"Distributing plant" means a plant in which any Grade A fluid milk product is pasteurized or packaged and disposed of during the month in the marketing area on routes.

5. A new § 1069.17 is added to read as follows:

§ 1069.17 Supply plant.

"Supply plant" means a plant from which Grade A milk is shipped during the month to a pool plant.

6. In § 1069.22, additional paragraphs (k), (l) and (m) are added and read as follows:

§ 1069.22 Duties.

* * * * *

(k) Whenever required for purpose of allocating receipts from other order plants pursuant to § 1069.46(a)(8) and the corresponding step of § 1069.46(b), the market administrator shall estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose;

(l) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products from an other order plant, the classification to which such receipts are allocated pursuant to § 1069.46 pursuant to such report, and thereafter any change in such allocation required to correct errors disclosed in verification of such report; and

(m) Furnish to each handler operating a pool plant who has shipped fluid milk products to an other order plant, the classification to which the skim milk and butterfat in such fluid milk products were allocated by the market administrator of the other order on the basis of the report of the receiving handler; and, as necessary, any changes in such classification arising in the verification of such report.

7. Section 1069.30 is revised to read as follows:

§ 1069.30 Reports of receipts and utilization.

(a) On or before the 7th day after the end of each month each handler pursuant to § 1069.9(a), (c) and (d) shall report to the market administrator with respect to each plant in the detail and on forms prescribed by the market administrator as follows:

(1) The receipts of milk from producers, the average butterfat test and the pounds of butterfat contained therein;

(2) The quantities of skim milk and butterfat contained in (or used in the production of) fluid milk products received from other handlers;

(3) The quantities of skim milk and butterfat contained in receipts of other source milk;

(4) The pounds of skim milk and butterfat contained in all fluid milk products on hand at the beginning and at the end of the month;

(5) The utilization of all skim milk and butterfat required to be reported pursuant to this section; and

(6) Such other information with respect to receipts and utilization as the market administrator may prescribe.

(b) Each handler specified in § 1069.9 (b) who operates a partially regulated distributing plant shall report as required in paragraph (a) of this section, except that receipts in Grade A milk shall be reported in lieu of those in producer milk. Such report shall include a separate statement showing the respective amounts of skim milk and butterfat disposed of on routes (other than to pool plants) in the marketing area as Class I milk.

8. The introductory text of § 1069.31 is revised to read as follows:

§ 1069.31 Payroll reports.

On or before the 25th day of each month, each handler shall submit to the market administrator his producer payroll for receipts during the preceding month which shall show:

9. Section 1069.32 is revised to read as follows:

§ 1069.32 Other reports.

Each handler operating a pool plant, each producer-handler and each handler pursuant to § 1069.9(b) shall make reports to the market administrator at such time and in such manner as the market administrator shall request.

10. Section 1069.41 is revised to read as follows:

§ 1069.41 Classes of utilization.

Subject to conditions set forth in § 1069.44, the classes of utilization shall be as follows:

(a) *Class I milk.* Class I milk shall be all skim milk (including the skim milk equivalent of concentrated products) and butterfat:

(1) Disposed of in the form of a fluid milk product except as provided in paragraph (b) (2) and (3) of this section; and

(2) Not accounted for as Class II milk;

(b) *Class II milk.* Class II milk shall be:

(1) Skim milk and butterfat used to produce any product other than a fluid milk product;

(2) Skim milk and butterfat disposed of as livestock feed or skim milk dumped, subject to prior notification to and inspection (at his discretion) by the market administrator;

(3) Skim milk represented by the nonfat milk solids added to a fluid milk product which is in excess of the weight of an equivalent volume of fluid milk products prior to such addition;

(4) Skim milk and butterfat contained in inventory of fluid milk products on hand at the end of the month;

(5) Skim milk and butterfat, respectively (except milk diverted to a nonpool plant pursuant to § 1069.10), in shrinkage, but not in excess of:

(i) 2.0 percent of producer milk;

(ii) Plus 1.5 percent of bulk fluid milk products received from a handler pursuant to § 1069.9(d);

(iii) Plus 1.5 percent of bulk fluid milk products received from pool plants;

(iv) Plus 1.5 percent of fluid milk products in bulk from other order plants, exclusive of the quantity for which Class II utilization was requested by the operators of both plants;

(v) Plus 1.5 percent of fluid milk products in bulk from unregulated supply plants, exclusive of the quantity for which Class II utilization was requested by the handler; and

(vi) Less 1.5 percent of fluid milk products in bulk transferred to pool plants and to other order plants; and

(6) Skim milk and butterfat in shrinkage allocated pursuant to § 1069.42 (b)(2).

11. Section 1069.42(b) (1) and (2) is revised to read as follows:

§ 1069.42 Shrinkage.

* * * * *

(b) * * *

(1) In the net quantity of producer milk and other fluid milk products specified in § 1069.41(b)(5); and

(2) In other source milk received in the form of fluid milk products exclusive of that specified in § 1069.41(b)(5).

12. Section 1069.44 is revised to read as follows:

§ 1069.44 Transfers.

Skim milk or butterfat in the form of a fluid milk product shall be classified:

(a) At the utilization indicated by the operators of both plants, otherwise as Class I milk, if transferred from a pool plant to the pool plant of another handler, subject in either event to the following conditions:

(1) The skim milk or butterfat so assigned to either class shall be limited to the amount thereof remaining in such class in the transferee plant after computations pursuant to § 1069.46(a)(8) and the corresponding step in § 1069.46 (b);

(2) If the transferor plant received during the month other source milk to be allocated pursuant to § 1069.46(a)(3), the skim milk and butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor handler received during the month other source milk to be allocated pursuant to § 1069.46(a) (7) or (8) and the corresponding steps of § 1069.46(b), the skim milk and butterfat so transferred up to the total of such receipts shall not be classified as Class I milk to a greater extent than would be applicable to a like quantity of such other source milk received at the transferee plant;

(b) As Class I milk, if transferred or diverted from a pool plant to a producer-handler;

(c) As Class I milk, if transferred or diverted to a nonpool plant that is neither an other order plant nor a producer-handler plant, located more than 250 miles, by the shortest highway distance as determined by the market administrator, from the Courthouse in Duluth, Minnesota;

(d) As Class I milk, if transferred or diverted in bulk to a nonpool plant that is neither an other order plant nor a producer-handler plant, located not more than 250 miles, by the shortest highway distance as determined by the market administrator, from the Courthouse in Duluth, Minnesota, unless the requirements of subparagraphs (1) and (2) of this paragraph are met, in which case the skim milk and butterfat so transferred or diverted shall be classified in accordance with the assignment resulting from subparagraph (3) of this paragraph:

(1) The transferring or diverting handler claims classification pursuant to the assignment set forth in subparagraph (3) of this paragraph in his report submitted to the market administrator pursuant to § 1069.30 for the month within which such transaction occurred;

(2) The operator of such nonpool plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for the purpose of verification; and

(3) The skim milk and butterfat so transferred shall be classified on the basis of the following assignment of uti-

lization at such nonpool plant in excess of receipts of packaged fluid milk products from all pool plants and other order plants:

(i) Any Class I utilization disposed of on routes in the marketing area shall be first assigned to the skim milk and butterfat in the fluid milk products so transferred or diverted from pool plants, next pro rata to receipts from other order plants and thereafter to receipts from dairy farmers who the market administrator determines constitute regular sources of supply of Grade A milk for such nonpool plant;

(ii) Any Class I utilization disposed of on routes in the marketing area of another order issued pursuant to the Act shall be first assigned to receipts from plants fully regulated by such order, next pro rata to receipts from pool plants and other order plants not regulated by such order, and thereafter to receipts from dairy farmers who the market administrator determines constitute regular sources of supply for such nonpool plant;

(iii) Class I utilization in excess of that assigned pursuant to subdivisions (i) and (ii) of this subparagraph shall be assigned first to remaining receipts from dairy farmers who the market administrator determines constitute the regular source of supply for such nonpool plant and Class I utilization in excess of such receipts shall be assigned pro rata to unassigned receipts at such nonpool plant from all pool and other order plants; and

(iv) To the extent that Class I utilization is not so assigned to it, the skim milk and butterfat so transferred shall be classified as Class II milk;

(e) As follows, if transferred to an other order plant in excess of receipts from such plant in the same category as described in subparagraph (1), (2) or (3) of this paragraph;

(1) If transferred in packaged form, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated as a fluid milk product under the other order (including allocation under the conditions set forth in subparagraph (3) of this paragraph);

(3) If the operators of both the transferor and transferee plants so request in the reports of receipts and utilization filed with their respective market administrators, transfers in bulk form shall be classified as Class II to the extent of the Class II utilization (or comparable utilization under such other order) available for such assignment pursuant to the allocation provisions of the transferee order;

(4) If information concerning the classification to which allocated under the other order is not available to the market administrator for purposes of establishing classification pursuant to this paragraph, classification shall be as Class I, subject to adjustment when such information is available;

(5) For purposes of this paragraph, if the transferee order provides for more than two classes of utilization, milk allocated to a class consisting primarily of fluid milk products shall be classified as Class I, and milk allocated to other classes shall be classified as Class II; and

(6) If the form in which any fluid milk product is transferred to an other order plant is not defined as a fluid milk product under such other order, classification shall be in accordance with the provisions of § 1069.41.

13. Section 1069.46 is revised to read as follows:

§ 1069.46 Allocation of skim milk and butterfat classified.

After making the computations pursuant to § 1069.45, the market administrator shall determine the classification of producer milk for each handler as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class II the pounds of skim milk classified as Class II pursuant to § 1069.41(b)(5);

(2) Subtract from the remaining pounds of skim milk in each class the pounds of skim milk in fluid milk products received in packaged form from other order plants as follows:

(i) From Class II milk, the lesser of the pounds remaining or two percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(3) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class II, the pounds of skim milk in each of the following:

(i) Other source milk in a form other than that of a fluid milk product;

(ii) Receipts of fluid milk products for which Grade A certification is not established, or which are from unidentified sources; and

(iii) Receipts of fluid milk products from a producer-handler, as defined under this or any other Federal order;

(4) Subtract, in the order specified below, from the pounds of skim milk remaining in Class II, but not in excess of such quantity;

(i) Receipts of fluid milk products from an unregulated supply plant:

(*a*) For which the handler requests Class II utilization; or

(*b*) Which are in excess of the pounds of skim milk determined by subtracting from 125 percent of the pounds of skim milk remaining in Class I milk the sum of the pounds of skim milk in producer milk, receipts from a handler pursuant to § 1069.9(d), receipts from pool plants of other handlers, and receipts in bulk from other order plants; and

(ii) Receipts of fluid milk products in bulk from an other order plant in excess of similar transfers to such plant, if Class II utilization was requested by the operator of such plant and the handler;

(5) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class II, the pounds of skim milk in inventory of fluid milk products on hand at the beginning of the month;

(6) Add to the remaining pounds of skim milk in Class II milk the pounds subtracted pursuant to subparagraph (1) of this paragraph;

(7) Subtract from the pounds of skim milk remaining in each class, pro rata to such quantities, the pounds of skim milk in receipts of fluid milk products from unregulated supply plants which were not subtracted pursuant to subparagraph (4)(i) of this paragraph;

(8) Subtract from the pounds of skim milk remaining in each class, in the following order, the pounds of skim milk in receipts of fluid milk products in bulk from an other order plant(s), in excess in each case of similar transfers to the same plant, which were not subtracted pursuant to subparagraph (4)(ii) of this paragraph:

(i) In series beginning with Class II, the pounds determined by multiplying the pounds of such receipts by the larger of the percentage of estimated Class II utilization of skim milk announced for the month by the market administrator pursuant to § 1069.22(k) or the percentage that Class II utilization remaining is of the total remaining utilization of skim milk of the handler; and

(ii) From Class I, the remaining pounds of such receipts;

(9) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk received in fluid milk products from other pool plants according to the classification assigned pursuant to § 1069.44(a);

(10) If the pounds of skim milk remaining in both classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class II. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) Combine the amounts of skim milk and butterfat determined pursuant to paragraphs (a) and (b) of this section into one total for each class and determine the weighted average butterfat content of producer milk in each class.

14. Section 1069.53 is revised to read as follows:

§ 1069.53 Location differentials to handlers.

(a) For producer milk and other source milk (for which a location adjustment is applicable) which is received at a plant located more than 55 miles by the shortest highway distance, as determined by the market administrator, from the Courthouse at Duluth, Minnesota, or Ashland, Wisconsin, whichever is closer, and which is classified as Class I milk, the prices computed pursuant to § 1069.51(a) shall be reduced by 8 cents if such plant is located more than 55 miles but not more than 65 miles from such courthouse and by an additional 1.3 cents for each 10 miles or fraction thereof that such distance exceeds 65 miles; and

(b) For the purpose of calculating location differentials, receipts of fluid milk products from pool plants shall be assigned any remainder of Class I milk at the transferee plant that is in excess of

the sum of producer milk receipts at such plant and that assigned as Class I to receipts from other order plants and unregulated supply plants. Such assignment shall be made first to transferor plants at which no location adjustment credit is applicable and then in sequence beginning with the plant at which the least location adjustment would apply.

15. Section 1069.62 is revised to read as follows:

§ 1069.62 Obligations of handler operating a partially regulated distributing plant.

Each handler who operates a partially regulated distributing plant shall pay to the market administrator for the producer-settlement fund on or before the 25th day after the end of the month either of the amounts (at the handler's election) calculated pursuant to paragraph (a) or (b) of this section. If the handler fails to report pursuant to §§ 1069.30(b) and 1069.32 the information necessary to compute the amount specified in paragraph (a), he shall pay the amount computed pursuant to paragraph (b) of this section:

(a) An amount computed as follows:

(1) (i) The obligation that would have been computed pursuant to § 1069.70 at such plant shall be determined as though such plant were a pool plant. For purposes of such computation, receipts at such nonpool plant from a pool plant or an other order plant shall be assigned to the utilization at which classified at the pool plant or other order plant and transfers from such nonpool plant to a pool plant or an other order plant shall be classified as Class II milk if allocated to such class at the pool plant or other order plant and be valued at the uniform price of the respective order if so allocated to Class I milk. There shall be included in the obligation so computed a charge in the amount specified in § 1069.70(e) and a credit in the amount specified in § 1069.84(b)(2) with respect to receipts from an unregulated supply plant, unless an obligation with respect to such plant is computed as specified below in this subparagraph.

(ii) If the operator of the partially regulated distributing plant so requests, and provides with his reports pursuant to §§ 1069.30(b) and 1069.32 similar reports with respect to the operations of any other nonpool plant which serves as a supply plant for such partially regulated distributing plant by shipments to such plant during the month equivalent to the requirements of § 1069.7(b), with agreement of the operator of such plant that the market administrator may examine the books and records of such plant for purposes of verification of such reports, there will be added the amount of the obligation computed at such nonpool supply plant in the same manner and subject to the same conditions as for the partially regulated distributing plant.

(2) From this obligation there will be deducted the sum of (i) the gross payments made by such handler for Grade A milk received during the month from dairy farmers at such plant and like payments made by the operator of a supply plant(s) included in the computations pursuant to subparagraph (1) of this paragraph, and (ii) any payments to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant.

(b) An amount computed as follows:

(1) Determine the respective amounts of skim milk and butterfat disposed of as Class I milk on routes (other than to pool plants) in the marketing area;

(2) Deduct (except that deducted under a similar provision of another order issued pursuant to the Act) the respective amounts of skim milk and butterfat received as Class I milk at the partially regulated distributing plant from pool plants and other order plants;

(3) Combine the amounts of skim milk and butterfat remaining into one total and determine the weighted average butterfat content; and

(4) From the value of such milk at the Class I price applicable at the location of the nonpool plant, subtract its value at the uniform price pursuant to § 1069.71 at the same location or at the Class II price, whichever is higher.

16. Section 1069.70 is revised to read as follows:

§ 1069.70 Computation of the net pool obligation of each pool handler.

The net pool obligation of each pool handler during each month shall be a sum of money computed by the market administrator as follows:

(a) Multiply the quantity of producer milk in each class, as computed pursuant to § 1069.46(c), by the applicable class prices;

(b) Add the amount obtained from multiplying the overage deducted from each class pursuant to § 1069.46(a)(10) and the corresponding step of § 1069.46 (b) by the applicable class prices;

(c) Add the amount obtained from multiplying the difference between the Class II price for the preceding month and the Class I price for the current month by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1069.46(a)(5) and the corresponding step of § 1069.46(b);

(d) Add an amount equal to the difference between the Class I and Class II price values at the pool plant of the skim milk and butterfat subtracted from Class I pursuant to § 1069.46(a)(3) and the corresponding step of § 1069.46(b); and

(e) Add the value at the Class I price, adjusted for location of the nearest nonpool plant(s) from which an equivalent volume was received, of the skim milk and butterfat subtracted from Class I pursuant to § 1069.46(a)(7) and the corresponding step of § 1069.46(b).

17. Section 1069.71 is revised to read as follows:

§ 1069.71 Computation of uniform prices.

For each month the market administrator shall compute the uniform price per hundredweight of milk received from producers as follows:

(a) Combine into one total the values computed pursuant to § 1069.70 for all handlers who filed the reports prescribed by § 1069.30 for the month and who made the payments pursuant to §§ 1069.80 and 1069.84 for the preceding month;

(b) Add an amount equal to the total value of the location differentials computed pursuant to § 1069.81;

(c) Subtract, if the average butterfat content of the milk specified in paragraph (e) of this section is more than 3.5 percent, or add, if such butterfat content is less than 3.5 percent, an amount computed by multiplying the amount by which the average butterfat content of such milk varies from 3.5 percent by the butterfat differential computed pursuant to § 1069.82 and multiplying the result by the total hundredweight of such milk;

(d) Add an amount equal to one-half the unobligated balance in the producer-settlement fund;

(e) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1069.70(e); and

(f) Subtract not less than four cents nor more than five cents per hundredweight. The result shall be the "uniform price".

18. Section 1069.81 is revised to read as follows:

§ 1069.81 Location differential to producers and on nonpool milk.

(a) For milk which is received at a pool plant located more than 55 miles but not more than 65 miles by shortest highway distance, as determined by the market administrator, from the Courthouse at Duluth, Minnesota, or at Ashland, Wisconsin, which ever is closer, there should be deducted 8 cents per hundredweight and an additional 1.3 cents should be deducted for each 10 miles or fraction thereof that such distance exceeds 65 miles; and

(b) For purposes of computations pursuant to §§ 1069.84 and 1069.85 the uniform price shall be adjusted at the rates set forth in § 1069.53 applicable at the location of the nonpool plant from which the milk was received.

19. Section 1069.84 is revised to read as follows:

§ 1069.84 Payments to the producer-settlement fund.

On or before the 15th day after the end of the month each handler shall pay to the market administrator the amount, if any, by which the total amounts specified in paragraph (a) of this section exceed the amounts specified in paragraph (b) of this section;

(a) The net pool obligation computed pursuant to § 1069.70 for such handler;

(b) The sum of:

(1) The value of such handler's producer milk at the applicable uniform price; and

(2) The value at the uniform price(s) applicable at the location of the plant(s), from which received (not to be less than the value at the Class II price) with respect to other source milk for which a value is computed pursuant to § 1069.70 (e).

20. Section 1069.85 is revised to read as follows:

§ 1069.85 Payments out of the producer-settlement fund.

On or before the 17th day after the end of each month the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1069.84(b) exceeds the amount computed pursuant to § 1069.84(a). If at such time the balance in the producer-settlement fund is insufficient to make all payments required by this section, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the appropriate funds are available.

21. Section 1069.88 is revised to read as follows:

§ 1069.88 Expense of administration.

As his pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 15th day after the end of the month 4 cents per hundredweight, or such lesser amount as the Secretary may prescribe, with respect to (a) producer milk (including such handler's own production), (b) other source milk allocated to Class I pursuant to § 1069.46(a) (3) and (7) and the corresponding steps of § 1069.46 (b), and (c) Class I milk disposed of in the marketing area from a partially regulated distributing plant that exceeds the hundredweight of Class I milk received during the month at such plant from pool plants and other order plants.

PART 1070—MILK IN CEDAR RAPIDS-IOWA CITY MARKETING AREA

1. Section 1070.7 is revised to read as follows:

§ 1070.7 Producer.

"Producer" means any person, other than a producer-handler as defined in any order (including this part) issued pursuant to the Act, who produces milk in compliance with the Grade A inspection requirements of a duly constituted health authority, and whose milk is received at a pool plant.

2. In § 1070.9, the reference "§ 1070.10 (a)" is changed to "§ 1070.10".

3. Section 1070.11 is revised to read as follows:

§ 1070.11 Nonpool plant.

"Nonpool plant" means any milk receiving, manufacturing or processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant, from which fluid milk products labeled Grade A in consumer-type packages or dispenser units are distributed on routes in the marketing area during the month.

(d) "Unregulated supply plant" means a nonpool plant that is a supply plant and is neither an other order plant nor a producer-handler plant.

4. In § 1070.12, paragraph (a) is revised and new paragraphs (c) and (d) are added to read as follows:

§ 1070.12 Handler.

* * * * *

(a) Any person in his capacity as the operator of one or more pool plants;

* * * * *

(c) Any person who operates a partially regulated distributing plant; and

(d) A producer-handler, or any person who operates an other order plant described in § 1070.61.

5. In § 1070.22, additional paragraphs (l), (m), and (n) are added and read as follows:

§ 1070.22 Duties.

* * * * *

(l) Whenever required for purpose of allocating receipts from other order plants pursuant to § 1070.46(a)(8) and the corresponding step of § 1070.46(b), the market administrator shall estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose;

(m) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products from an other order plant, the classification to which such receipts are allocated pursuant to § 1070.46 pursuant to such report, and thereafter any change in such allocation required tc correct errors disclosed in verification of such report; and

(n) Furnish to each handler operating a pool plant who has shipped fluid milk products to an other order plant, the classification to which the skim milk and butterfat in such fluid milk products were allocated by the market administrator of the other order on the basis of the report of the receiving handler; and, as necessary, any changes in such classification arising in the verification of such report.

6. In § 1070.31, a new paragraph (c) is added and reads as follows:

§ 1070.31 Other reports.

* * * * *

(c) Each handler specified in § 1070.12 (c) who operates a partially regulated distributing plant shall report as follows:

(1) As required pursuant to § 1070.30, except that receipts in Grade A milk shall be reported in lieu of those in producer milk; such report shall include a separate statement showing the respective amounts of skim milk and butterfat disposed of on routes in the marketing area as Class I milk; and

(2) As required in paragraph (b) of this section, if he wishes computations pursuant to § 1070.62(a) to be considered in computation of his obligation pur-

suant to § 1070.62. In such report payments to dairy farmers delivering Grade A milk shall be reported in lieu of payments to producers.

7. Section 1070.41 is revised to read as follows:

§ 1070.41 Classes of utilization.

Subject to the conditions set forth in § 1070.44 the classes of utilization shall be as follows:

(a) *Class I milk.* Class I milk shall be all skim milk (including concentrated and reconstituted skim milk) and butterfat:

(1) Disposed of in the form of a fluid milk product except that any product fortified with added solids shall be Class I in an amount equal only to the weight of an equal volume of a like unmodified product of the same butterfat content; and

(2) Not accounted for as Class II milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Used to produce any product other than a fluid milk product;

(2) Contained in inventory of fluid milk products on hand at the end of the month;

(3) The weight of skim milk in fluid milk products which is excepted from Class I milk pursuant to paragraph (a) (1) of this section;

(4) In shrinkage up to but not in excess of, 2 percent of the total receipts of (i) producer milk (except milk diverted to a nonpool plant pursuant to § 1070.14), (ii) fluid milk products in bulk from an other order plant, exclusive of the quantity for which Class II utilization was requested by the operator of such plant and the handler, and (iii) fluid milk products in bulk from unregulated supply plants, exclusive of the quantity for which Class II utilization was requested by the handler; and

(5) In shrinkage assigned pursuant to § 1070.42(b) (2).

8. In § 1070.42, paragraph (b) is revised to read as follows:

§ 1070.42 Shrinkage.

* * * * *

(b) Prorate the resulting amounts between the receipts of skim milk and butterfat contained in:

(1) Items specified in § 1070.41(b) (4); and

(2) Remaining receipts of other source milk in the form of fluid milk products in bulk.

9. Section 1070.44 is revised to read as follows:

§ 1070.44 Transfers.

Skim milk or butterfat in the form of a fluid milk product shall be classified:

(a) At the utilization indicated by the operators of both plants, otherwise as Class I milk, if transferred from a pool plant to the pool plant of another handler, subject in either event to the following conditions:

(1) The skim milk or butterfat so assigned to either class shall be limited to the amount thereof remaining in such class in the plant(s) of the transferee handler after computations pursuant to § 1070.46(a) (8) and the corresponding step of § 1070.46(b);

(2) If the transferor handler received during the month other source milk to be allocated pursuant to § 1070.46(a) (3) and the corresponding step of § 1070.46 (b), the skim milk and butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor handler received during the month other source milk to be allocated pursuant to § 1070.46(a) (7) or (8) and the corresponding steps of § 1070.46(b), the skim milk and butterfat so transferred up to the total of such receipts shall not be classified as Class I milk to a greater extent than would be applicable to a like quantity of such other source milk received at the transferee plant;

(b) As Class I milk, if transferred from a pool plant to a producer-handler;

(c) As Class I milk, if transferred or diverted to a nonpool plant that is neither an other order plant nor a producer-handler plant, located more than 300 miles by the shortest highway distance as determined by the market administrator, from the nearer of the City Halls of Cedar Rapids and Iowa City, Iowa;

(d) As Class I milk, if transferred or diverted in bulk to a nonpool plant that is neither an other order plant nor a producer-handler plant, located not more than 300 miles, by the shortest highway distance as determined by the market administrator, from the nearer of the City Halls of Cedar Rapids and Iowa City, Iowa, unless the requirements of subparagraphs (1) and (2) of this paragraph are met, in which case the skim milk and butterfat so transferred or diverted shall be classified in accordance with the assignment resulting from subparagraph (3) of this paragraph:

(1) The transferring or diverting handler claims classification pursuant to the assignment set forth in subparagraph (3) of this paragraph in his report submitted to the market administrator pursuant to § 1070.30 for the month within which such transaction occurred;

(2) The operator of such nonpool plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for the purpose of verification; and

(3) The skim milk and butterfat so transferred shall be classified on the basis of the following assignment of utilization at such nonpool plant in excess of receipts of packaged fluid milk products from all pool plants and other order plants:

(i) Any Class I utilization disposed of on routes in the marketing area shall be first assigned to the skim milk and butterfat in the fluid milk products so transferred or diverted from pool plants, next pro rata to receipts from other order plants and thereafter to receipts from dairy farmers who the market administrator determines constitute regular sources of supply of Grade A milk for such nonpool plant;

(ii) Any Class I utilization disposed of on routes in the marketing area of another order issued pursuant to the Act shall be first assigned to receipts from plants fully regulated by such order, next pro rata to receipts from pool plants and other order plants not regulated by such order, and thereafter to receipts from dairy farmers who the market administrator determines constitute regular sources of supply for such nonpool plant;

(iii) Class I utilization (except in ungraded cream disposed of for manufacturing uses) in excess of that assigned pursuant to subdivisions (i) and (ii) of this subparagraph shall be assigned first to remaining receipts from dairy farmers who the market administrator determines constitute the regular source of supply for such nonpool plant and Class I utilization in excess of such receipts shall be assigned pro rata to unassigned receipts at such nonpool plant for all pool and other order plants; and

(iv) To the extent that Class I utilization is not so assigned to it, the skim milk and butterfat so transferred shall be classified as Class II milk; and

(e) As follows, if transferred to an other order plant in excess of receipts from such plant in the same category as described in subparagraph (1), (2), or (3) of this paragraph:

(1) If transferred in packaged form, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated as a fluid milk product under the other order (including allocation under the conditions set forth in subparagraph (3) of this paragraph);

(3) If the operators of both the transferor and transferee plants so request in the reports of receipts and utilization filed with their respective market administrators, transfers in bulk form shall be classified as Class II to the extent of the Class II utilization (or comparable utilization under such other order) available for such assignment pursuant to the allocation provisions of the transferee order;

(4) If information concerning the classification to which allocated under the other order is not available to the market administrator for purposes of establishing classification pursuant to this paragraph, classification shall be as Class I, subject to adjustment when such information is available;

(5) For purposes of this paragraph, if the transferee order provides for more than two classes of utilization, milk allocated to a class consisting primarily of fluid milk products shall be classified as Class I, and milk allocated to other classes shall be classified as Class II; and

(6) If the form in which any fluid milk product is transferred to an other order plant is not defined as a fluid milk product under such other order, classification shall be in accordance with the provisions of § 1070.41.

10. Section 1070.46 is revised to read as follows:

§ 1070.46 Allocation of skim milk and butterfat classified.

After making the computations pursuant to § 1070.45, the market admin-

istrator shall determine the classification of producer milk for each handler as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class II the pounds of skim milk classified as Class II pursuant to § 1070.41(b)(7);

(2) Subtract from the remaining pounds of skim milk in each class the pounds of skim milk in fluid milk products received in packaged form from other order plants as follows:

(i) From Class II milk, the lesser of the pounds remaining or two percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(3) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class II, the pounds of skim milk in each of the following:

(i) Other source milk in a form other than that of a fluid milk product;

(ii) Receipts of fluid milk products for which Grade A certification is not established, or which are from unidentified sources; and

(iii) Receipts of fluid milk products from a producer-handler, as defined under this or any other Federal order;

(4) Subtract, in the order specified below, from the pounds of skim milk remaining in Class II but not in excess of such quantity:

(i) Receipts of fluid milk products from an unregulated supply plant:

(*a*) For which the handler requests Class II utilization; or

(*b*) Which are in excess of the pounds of skim milk determined by multiplying the pounds of skim milk remaining in Class I milk by 1.25 and subtracting the sum of the pounds of skim milk in producer milk, receipts from other pool handlers, and receipts in bulk from other order plants;

(ii) Receipts of fluid milk products in bulk from an other order plant in excess of similar transfers to such plant, if Class II utilization was requested by the operator of such plant and the handler;

(5) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class II, the pounds of skim milk in inventory of fluid milk products on hand at the beginning of the month;

(6) Add to the remaining pounds of skim milk in Class II milk the pounds subtracted pursuant to subparagraph (1) of this paragraph;

(7) Subtract from the pounds of skim milk remaining in each class, pro rata to such quantities, the pounds of skim milk in receipts of fluid milk products from unregulated supply plants which were not subtracted pursuant to subparagraph (4)(i) of this paragraph;

(8) Subtract from the pounds of skim milk remaining in each class, in the following order, the pounds of skim milk in receipts of fluid milk products in bulk from an other order plant(s), in excess in each case of similar transfers to the same plant, which were not subtracted pursuant to subparagraph (4)(ii) of this paragraph:

(i) In series beginning with Class II, the pounds determined by multiplying the pounds of such receipts by the larger of the percentage of estimated Class II utilization of skim milk announced for the month by the market administrator pursuant to § 1070.22(1) or the percentage that Class II utilization remaining is of the total remaining utilization of skim milk of the handler; and

(ii) From Class I, the remaining pounds of such receipts;

(9) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk received in fluid milk products from pool plants of other handlers according to the classification assigned pursuant to § 1070.44(a); and

(10) If the pounds of skim milk remaining in both classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class II. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) Combine the amounts of skim milk and butterfat determined pursuant to paragraphs (a) and (b) of this section into one total for each class and determine the weighted average butterfat content of producer milk in each class.

11. Section 1070.52 is revised to read as follows:

§ 1070.52 Location adjustments to handlers.

(a) For milk received from producers at a pool plant located 50 miles or more by shortest hard-surfaced highway distance as measured by the market administrator, from the nearer of the City Halls in Cedar Rapids and Iowa City, Iowa, and disposed of as Class I milk or assigned Class I location adjustment credit pursuant to paragraph (b) of this section and for other source milk for which a location adjustment is applicable, the price computed pursuant to § 1070.50(a) shall be reduced by 10 cents, plus 1.5 cents for each 10 miles or fraction thereof that such distance exceeds 65 miles; and

(b) For purposes of calculating such adjustment, transfers between pool plants shall be assigned to Class I utilization remaining at the transferee plant after computations pursuant to § 1070.46(a)(8) and the corresponding step of § 1070.46(b) which is in excess of 95 percent of receipts at such plant from producers, such assignment to be made first to transferor plants at which no location adjustment credit is applicable and then in sequence beginning with the plant at which the least location adjustment would apply.

12. Section 1070.62 is revised to read as follows:

§ 1070.62 Obligations of handler operating a partially regulated distributing plant.

Each handler who operates a partially regulated distributing plant shall pay to the market administrator for the producer-settlement fund on or before the 25th day after the end of the month either of the amounts (at the handler's election) calculated pursuant to paragraph (a) or (b) of this section. If the handler fails to report pursuant to § 1070.30 and § 1070.31(b) the information necessary to compute the amount specified in paragraph (a) of this section, he shall pay the amount computed pursuant to paragraph (b) of this section:

(a) An amount computed as follows:

(1)(i) The obligation that would have been computed pursuant to § 1070.70 at such plant shall be determined as though such plant were a pool plant. For purposes of such computation, receipts at such nonpool plant from a pool plant or an other order plant shall be assigned to the utilization at which classified at the pool plant or other order plant and transfers from such nonpool plant to a pool plant or an other order plant shall be classified as Class II milk if allocated to such class at the pool plant or other order plant and be valued at the weighted average price of the respective order if so allocated to Class I milk. There shall be included in the obligation so computed a charge in the amount specified in § 1070.70(e) and a credit in the amount specified in § 1070.84(b)(2) with respect to receipts from an unregulated supply plant, unless an obligation with respect to such plant is computed as specified below in this subparagraph.

(ii) If the operator of the partially regulated distributing plant so requests, and provides with his reports pursuant to §§ 1070.30 and 1070.31(b) similar reports with respect to the operations of any other nonpool plant which serves as a supply plant for such partially regulated distributing plant by shipments to such plant during the month equivalent to the requirements of § 1070.10(b) with agreement of the operator of such plant that the market administrator may examine the books and records of such plant for purposes of verification of such reports, there will be added the amount of the obligation computed at such nonpool supply plant in the same manner and subject to the same conditions as for the partially regulated distributing plant.

(2) From this obligation there will be deducted the sum of (i) the gross payments made by such handler for Grade A milk received during the month from dairy farmers at such plant and like payments made by the operator of a supply plant(s) included in the computations pursuant to subparagraph (1) of this paragraph, and (ii) any payments to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant.

(b) An amount computed as follows:

(1) Determine the respective amounts of skim milk and butterfat disposed of as Class I milk on routes in the marketing area;

(2) Deduct the respective amounts of skim milk and butterfat received as Class I milk at the partially regulated distributing plant from pool plants and other order plants except that deducted under a similar provision of another order issued pursuant to the Act;

(3) Combine the amounts of skim milk and butterfat remaining into one total and determine the weighted average butterfat content; and

(4) From the value of such milk at the Class I price applicable at the location of the nonpool plant, subtract its value at the weighted average price applicable at such location (not to be less than the Class II price).

§ 1070.63 [Revocation]

13. Section 1070.63 is revoked.

14. Section 1070.70 is revised to read as follows:

§ 1070.70 Computation of the net pool obligation of each pool handler.

The net pool obligation of each pool handler during each month shall be a sum of money computed by the market administrator as follows:

(a) Multiply the quantity of producer milk in each class, as computed pursuant to § 1070.46(c), by the applicable class prices (adjusted pursuant to §§ 1070.51 and 1070.52);

(b) Add the amount obtained from multiplying the pounds of overage deducted from each class pursuant to § 1070.46(a)(10) and the corresponding step of § 1070.46(b) by the applicable class prices;

(c) Add the amount obtained from multiplying the difference between the Class II price for the preceding month and the Class I price for the current month by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1070.46(a)(5) and the corresponding step of § 1070.46(b);

(d) Add an amount equal to the difference between the value at the Class I price applicable at the pool plant and the value at the Class II price, with respect to skim milk and butterfat in other source milk subtracted from Class I pursuant to § 1070.46(a)(3) and the corresponding step of § 1070.46(b);

(e) Add an amount equal to the value at the Class I price, adjusted for location of the nearest nonpool plant(s) from which an equivalent volume was received, with respect to skim milk and butterfat subtracted from Class I pursuant to § 1070.46(a)(7) and the corresponding step of § 1070.46(b).

15. Section 1070.71 is revised to read as follows:

§ 1070.71 Computation of uniform price.

For each month the market administrator shall compute a uniform price for producer milk of 3.5 percent butterfat content f.o.b. pool plants located within 50 miles of the City Hall of Cedar Rapids or Iowa City, Iowa, as follows:

(a) Combine into one total the values computed pursuant to § 1070.70 for all handlers who filed the reports prescribed by § 1070.30 for the month and who made the payments pursuant to § 1070.84 for the preceding month;

(b) Add an amount equal to the total value of the location differentials computed pursuant to § 1070.82;

(c) Subtract, if the average butterfat content of the milk specified in paragraph (e) of this section is more than 3.5 percent, or add, if such butterfat content is less than 3.5 percent, an amount computed by multiplying the amount by which the average butterfat content of such milk varies from 3.5 percent by the butterfat differential computed pursuant to § 1070.81 and multiplying the result by the total hundredweight of such milk;

(d) Add an amount equal to not less than one-half of the unobligated balance in the producer-settlement fund;

(e) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1070.70(e); and

(f) Subtract not less than four cents nor more than five cents per hundredweight. The result shall be the "uniform price" for milk received from producers.

16. Section 1070.82 is revised to read as follows:

§ 1070.82 Location differentials to producers and on nonpool milk.

(a) The uniform price for producer milk received at a pool plant shall be reduced according to the location of the pool plant, at the rates set forth in § 1070.52; and

(b) For purposes of computations pursuant to §§ 1070.84 and 1070.85 the uniform price shall be adjusted at the rates set forth in § 1070.52 applicable at the location of the nonpool plant from which the milk was received.

17. Section 1070.84 is revised to read as follows:

§ 1070.84 Payments to the producer-settlement fund.

On or before the 12th day after the end of the month each handler shall pay to the market administrator the amount, if any, by which the total amounts specified in paragraph (a) of this section exceed the amounts specified in paragraph (b) of this section:

(a) The total of the net pool obligation computed pursuant to § 1070.70 for such handler; and

(b) The sum of

(1) The value of such handler's producer milk at the applicable uniform price specified in § 1070.80; and

(2) The value at the uniform price applicable at the location of the plant(s), from which received (not to be less than the value at the Class II price) with respect to other source milk for which a value is computed pursuant to § 1070.70(e).

18. Section 1070.85 is revised to read as follows:

§ 1070.85 Payments out of the producer-settlement fund.

On or before the 12th day after the end of each month the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1070.84(b) exceeds the amount computed pursuant to § 1070.84(a): *Provided*, That if the balance in the producer-settlement fund is insufficient to make all payments pursuant to this paragraph, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the necessary funds are available. A handler who has not received the balance of such payments from the market administrator shall not be considered in violation of § 1070.80 if he reduces his payments to producers by not more than the amount of the reduction in payment from the producer-settlement fund.

19. Section 1070.87 is revised to read as follows:

§ 1070.87 Expense of administration.

As his pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 12th day after the end of the month four cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect to (a) producer milk, (b) other source milk allocated to Class I pursuant to § 1070.46(a)(3) and (7) and the corresponding steps of § 1070.46(b), and (c) Class I milk disposed of from a partially regulated distributing plant on routes in the marketing area that exceeds Class I milk received during the month at such plant from pool plants and other order plants.

PART 1078—MILK IN NORTH CENTRAL IOWA MARKETING AREA

1. Section 1078.7 is revised to read as follows:

§ 1078.7 Producer.

"Producer" means any person, other than a producer-handler as defined in any order (including this part) issued pursuant to the Act, who produces milk in compliance with the Grade A inspection requirements of a duly constituted health authority, and whose milk is (a) received at a pool plant, or (b) diverted from a pool plant to a nonpool plant for the account of the operator of the pool plant (1) any day during the months of April through June, and (2) on not more than one-half the days on which milk was delivered from a farm during any of the months of July through March.

2. In § 1078.9, the reference "§ 1078.10 (a)" is changed to "§ 1078.10".

3. In § 1078.10, paragraph (b) is revised to read as follows:

§ 1078.10 Pool plant.

* * * * *

(b) A supply plant for the month in which shipments of milk, skim milk or cream are made to distributing plants which are pool plants on not less than 10 days in any of the months of September, October, and November and on not less than 5 days in other months: *Provided,* That a supply plant which was not a pool plant for each of the immediately preceding months of September, October, and November shall not be a pool plant for any month during which none of the milk, skim milk or cream from such plant would be allocated to Class I milk pursuant to the procedure specified in § 1078.46(a)(3) and the corresponding step of § 1078.46(b) at a distributing plant which is a pool plant.

4. Section 1078.11 is revised to read as follows:

§ 1078.11 Nonpool plant.

"Nonpool plant" means any milk receiving, manufacturing or processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant, from which fluid milk products labeled Grade A in consumer-type packages or dispenser units are distributed on routes in the marketing area during the month.

(d) "Unregulated supply plant" means a nonpool plant that is a supply plant and is neither an other order plant nor a producer-handler plant.

5. In § 1078.22, additional paragraphs (k) and (l) are added and read as follows:

§ 1078.22 Duties.

* * * * *

(k) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products from an other order plant, the classification to which such receipts are allocated pursuant to § 1078.46 pursuant to such report, and thereafter any change in such allocation required to correct errors disclosed in verification of such report; and

(l) Furnish to each handler operating a pool plant who has shipped fluid milk products to an other order plant, the classification to which the skim milk and butterfat in such fluid milk products were allocated by the market administrator of the other order on the basis of the report of the receiving handler; and, as necessary, any changes in such classification arising in the verification of such report.

6. Section 1078.41 is revised to read as follows:

§ 1078.41 Classes of utilization.

Subject to the conditions set forth in § 1078.44, the classes of utilization shall be as follows:

(a) *Class I milk.* Class I milk shall be all skim milk (including concentrated and reconstituted skim milk) and butterfat:

(1) Disposed of in the form of a fluid milk product, except that any product fortified with added solids shall be Class I in an amount equal only to the weight of an equal volume of a like unmodified product of the same butterfat content; and

(2) Not accounted for as Class II milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Used to produce any product other than a fluid milk product;

(2) Contained in inventory of fluid milk products on hand at the end of the month;

(3) Which is excepted from Class I pursuant to paragraph (a)(1) of this section;

(4) In shrinkage up to but not in excess of, 2 percent of the receipts of (i) producer milk (except milk diverted to a nonpool plant pursuant to § 1078.7), (ii) fluid milk products in bulk from an other order plant, exclusive of the quantity for which Class II utilization was requested by the operator of such plant and the handler, and (iii) fluid milk products in bulk from unregulated supply plants, exclusive of the quantity for which Class II utilization was requested by the handler; and

(5) In shrinkage of skim milk and butterfat, respectively, assigned pursuant to § 1078.42(b)(2).

7. In § 1078.42, paragraph (b) is revised to read as follows:

§ 1078.42 Shrinkage.

* * * * *

(b) Prorate the resulting amounts between the receipts of skim milk and butterfat contained in:

(1) Items specified in § 1078.41(b)(4); and

(2) Remaining receipts of other source milk.

8. Section 1078.44 is revised to read as follows:

§ 1078.44 Transfers.

Skim milk or butterfat in the form of a fluid milk product shall be classified:

(a) At the utilization indicated by the operators of both plants, otherwise as Class I milk, if transferred from a pool plant to the pool plant of another handler, subject in either event to the following conditions:

(1) The skim milk or butterfat so assigned to either class shall be limited to the amount thereof remaining in such class in the plant(s) of the transferee handler after computations pursuant to § 1078.46(a)(7) and the corresponding step of § 1078.46(b);

(2) If the transferor handler received during the month other source milk to be allocated pursuant to § 1078.46(a)(3), the skim milk and butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor handler received during the month other source milk to be allocated pursuant to § 1078.46(a)(7) and the corresponding step of § 1078.46(b), the skim milk and butterfat so transferred up to the total of such receipts shall not be classified as Class I milk to a greater extent than would be applicable to a like quantity of such other source milk received at the transferee plant;

(b) As Class I milk, if transferred from a pool plant to a producer-handler;

(c) As Class I milk, if transferred or diverted to a nonpool plant that is neither an other order plant nor a producer-handler plant, located more than 150 miles by the shortest highway distance as determined by the market administrator, from the nearest of the City Halls of Waterloo, Mason City, Fort Dodge and Marshalltown, Iowa;

(d) As Class I milk, if transferred or diverted in bulk to a nonpool plant that is neither an other order plant nor a producer-handler plant, located not more than 150 miles, by the shortest highway distance as determined by the market administrator, from the nearest of the City Halls of Waterloo, Mason City, Fort Dodge and Marshalltown, Iowa, unless the requirements of subparagraphs (1) and (2) of this paragraph are met, in which case the skim milk and butterfat so transferred or diverted shall be classified in accordance with the assignment resulting from subparagraph (3) of this paragraph:

(1) The transferring or diverting handler claims classification pursuant to the assignment set forth in subparagraph (3) of this paragraph in his report submitted to the market administrator pursuant to § 1078.30 for the month within which such transaction occurred;

(2) The operator of such nonpool plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the

market administrator for the purpose of verification; and

(3) The skim milk and butterfat so transferred shall be classified on the basis of the following assignment of utilization at such nonpool plant in excess of receipts of packaged fluid milk products from all pool plants and other order plants:

(i) Any Class I utilization disposed of on routes in the marketing area shall be first assigned to the skim milk and butterfat in the fluid milk products so transferred or diverted from pool plants, next pro rata to receipts from other order plants and thereafter to receipts from dairy farmers who the market administrator determines constitute regular sources of supply of Grade A milk for such nonpool plant;

(ii) Any Class I utilization disposed of on routes in the marketing area of another order issued pursuant to the Act shall be first assigned to receipts from plants fully regulated by such order, next pro rata to receipts from other order plants not regulated by such order, and thereafter to receipts from dairy farmers who the market administrator determines constitute regular sources of supply for such nonpool plant;

(iii) Class I utilization in excess of that assigned pursuant to subdivisions (i) and (ii) of this subparagraph shall be assigned first to remaining receipts from dairy farmers who the market administrator determines constitute the regular source of supply for such nonpool plant and Class I utilization in excess of such receipts shall be assigned pro rata to unassigned receipts at such nonpool plant from all pool and other order plants; and

(iv) To the extent that Class I utilization is not so assigned to it, the skim milk and butterfat so transferred shall be classified as Class II milk; and

(e) As follows, if transferred to an other order plant in excess of receipts from such plant in the same category as described in subparagraph (1), (2), or (3) of this paragraph:

(1) If transferred in packaged form, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated as a fluid milk product under the other order (including allocation under the conditions set forth in subparagraph (3) of this paragraph);

(3) If the operators of both the transferor and transferee plants so request in the reports of receipts and utilization filed with their respective market administrators, transfers in bulk form shall be classified as Class II to the extent of the Class II utilization (or comparable utilization under such other order) available for such assignment pursuant to the allocation provisions of the transferee order;

(4) If information concerning the classification to which allocated under the other order is not available to the market administrator for purposes of establishing classification pursuant to this paragraph, classification shall be as Class I, subject to adjustment when such information is available;

(5) For purposes of this paragraph, if the transferee order provides for more than two classes of utilization, milk allocated to a class consisting primarily of fluid milk products shall be classified as Class I, and milk allocated to other classes shall be classified as Class II; and

(6) If the form in which any fluid milk product is transferred to an other order plant is not defined as a fluid milk product under such other order, classification shall be in accordance with the provisions of § 1078.41.

9. Section 1078.46 is revised to read as follows:

§ 1078.46 Allocation of skim milk and butterfat classified.

After making the computations pursuant to § 1078.45, the market administrator shall determine the classification of producer milk for each handler as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class II the pounds of skim milk classified as Class II pursuant to § 1078.41(b)(4);

(2) Subtract from the remaining pounds of skim milk in each class the pounds of skim milk in fluid milk products received in packaged form from other order plants as follows:

(i) From Class II milk, the lesser of the pounds remaining or two percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(3) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class II, the pounds of skim milk in each of the following:

(i) Other source milk in a form other than that of a fluid milk product;

(ii) Receipts of fluid milk products for which Grade A certification is not established, or which are from unidentified sources; and

(iii) Receipts of fluid milk products from a producer-handler, as defined under this or any other Federal order;

(4) Subtract, in the order specified below, from the pounds of skim milk remaining in Class II but not in excess of such quantity:

(i) Receipts of fluid milk products from an unregulated supply plant:

(*a*) For which the handler requests Class II utilization; or

(*b*) Which are in excess of the pounds of skim milk determined by multiplying the pounds of skim milk remaining in Class I milk by 1.25 and subtracting the sum of the pounds of skim milk in producer milk, receipts from other pool handlers, and receipts in bulk from other order plants;

(ii) Receipts of fluid milk products in bulk from an other order plant in excess of similar transfers to such plant, if Class II utilization was requested by the operator of such plant and the handler;

(5) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class II, the pounds of skim milk in inventory of fluid milk products on hand at the beginning of the month;

(6) Add to the remaining pounds of skim milk in Class II milk the pounds subtracted pursuant to subparagraph (1) of this paragraph;

(7) Subtract from the pounds of skim milk remaining in each class, pro rata to such quantities, the pounds of skim milk in each of the following:

(i) Receipts of fluid milk products from unregulated supply plants that were not subtracted pursuant to subparagraph (4)(i) of this paragraph;

(ii) Receipts of fluid milk products in bulk from other order plants that were not subtracted pursuant to subparagraph (4)(ii) of this paragraph;

(8) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk received in fluid milk products from pool plants of other handlers according to the classification assigned pursuant to § 1078.44(a); and

(9) If the pounds of skim milk remaining in both classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class II. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) Combine the amounts of skim milk and butterfat determined pursuant to paragraphs (a) and (b) of this section into one total for each class and determine the weighted average butterfat content of producer milk in each class.

§ 1078.52 [Amendment]

10. In § 1078.52, the proviso is revised to read: "*Provided*, That for purposes of calculating the location differential adjustment applicable pursuant to this section, fluid milk products which are transferred between pool plants shall be assigned to the Class I milk remaining in the transferee plant after calculations pursuant to § 1078.46(a)(7) and the corresponding step of § 1078.46(b) that is in excess of receipts at such plant from producers and cooperative associations pursuant to § 1078.12(b), such assignment to transferor plants to be made first to plants at which no location adjustment is applicable and then in sequence beginning with the plant at which the least location adjustment would apply."

11. In § 1078.70, paragraph (e) is revised to read as follows:

§ 1078.70 Computation of the net obligation of each handler.

* * * * *

(e) Add the amount obtained from multiplying the difference between the Class II price for the preceding month and the Class I price for the current month by the lesser of:

(1) The hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1078.46(a)(5) and the corresponding step of (b); or

(2) The hundredweight of skim milk and butterfat remaining in Class II (exclusive of shrinkage) after computations pursuant to § 1078.46(a)(7)(i) and the

corresponding step of § 1078.46(b) for the preceding month;

12. Section 1078.85 is revised to read as follows:

§ 1078.85 Expense of administration.

As his pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 15th day after the end of the month 4 cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect to (a) producer milk, (b) other source milk allocated to Class I pursuant to § 1078.46 (a) (3) and (7) (i) and the corresponding steps of § 1078.46 (b), and (c) Class I milk disposed of from a partially regulated distributing plant on routes in the marketing area that exceeds the hundredweight of Class I milk received during the month at such plant from pool plants and other order plants.

PART 1079—MILK IN DES MOINES, IOWA, MARKETING AREA

1. Section 1079.7 is revised to read as follows:

§ 1079.7 Approved dairy farmer.

"Approved dairy farmer" means any person, except a producer-handler as defined in any order (including this part) issued pursuant to the Act, who produces milk in compliance with Grade A inspection requirements of a duly constituted health authority which milk is received at an approved plant.

2. Section 1079.11 is revised to read as follows:

§ 1079.11 Approved plant.

"Approved plant" means a pool plant or a partially regulated distributing plant.

3. Section 1079.13 is revised to read as follows:

§ 1079.13 Nonpool plant.

"Nonpool plant" means any milk receiving, manufacturing or processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant, from which fluid milk products labeled Grade A in consumer-type packages or dispenser units are distributed on routes in the marketing area during the month.

(d) "Unregulated supply plant" means a nonpool plant that is a supply plant and is neither an other order plant nor a producer-handler plant.

4. In § 1079.27, additional paragraphs (l), (m), and (n) are added and read as follows:

§ 1079.27 Duties.

* * * * *

(l) Whenever required for purpose of allocating receipts from other order plants pursuant to § 1079.46(a)(8) and the corresponding step of § 1079.46(b), the market administrator shall estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose;

(m) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products from an other order plant; the classification to which such receipts are allocated pursuant to § 1079.46 pursuant to such report, and thereafter any change in such allocation required to correct errors disclosed in verification of such report; and

(n) Furnish to each handler operating a pool plant who has shipped fluid milk products to an other order plant, the classification to which the skim milk and butterfat in such fluid milk products were allocated by the market administrator of the other order on the basis of the report of the receiving handler; and, as necessary, any changes in such classification arising in the verification of such report.

5. In § 1079.30, paragraph (f) is revised to read as follows:

§ 1079.30 Reports of receipts and utilization.

* * * * *

(f) The utilization of all skim milk and butterfat required to be reported pursuant to this section, including a separate statement of the disposition of Class I milk on routes in the marketing area.

6. Section 1079.41 is revised to read as follows:

§ 1079.41 Classes of utilization.

Subject to the conditions set forth in § 1079.44 the classes of utilization shall be as follows:

(a) *Class I milk.* Class I milk shall be all skim milk (including concentrated and reconstituted skim milk) and butterfat:

(1) Disposed of in the form of a fluid milk product except:

(i) Any product fortified with added solids shall be Class I in an amount equal only to the weight of an equal volume of

a like unmodified product of the same butterfat content; and

(ii) As classified pursuant to paragraph (b)(2) of this section; and

(2) Not accounted for as Class II milk;

(b) *Class II milk.* Class II milk shall be:

(1) Skim milk and butterfat used to produce any product other than a fluid milk product;

(2) Skim milk disposed of for livestock feed or dumped if the market administrator has been notified in advance and afforded the opportunity of verifying such dumping;

(3) Skim milk and butterfat contained in inventory of fluid milk products on hand at the end of the month;

(4) The weight of skim milk in fluid milk products which is excepted from Class I milk pursuant to paragraph (a)(1)(i) of this section;

(5) Skim milk and butterfat in shrinkage not in excess of two percent of the receipts of (i) approved milk (except milk diverted to a nonpool plant pursuant to § 1079.16), (ii) fluid milk products in bulk from an other order plant, exclusive of the quantity for which Class II utilization was requested by the operator of such plant and the handler, and (iii) fluid milk products in bulk from unregulated supply plants, exclusive of the quantity for which Class II utilization was requested by the handler; and

(6) Skim milk and butterfat, respectively, in shrinkage assigned pursuant to § 1079.42(b)(2).

7. In § 1079.42, paragraph (b) is revised to read as follows:

§ 1079.42 Shrinkage.

* * * * *

(b) Prorate the resulting amounts between the receipts of skim milk and butterfat contained in:

(1) Items specified in § 1079.41(b)(5); and

(2) Remaining receipts of other source milk.

8. Section 1079.44 is revised to read as follows:

§ 1079.44 Transfers.

Skim milk or butterfat in the form of a fluid milk product shall be classified:

(a) At the utilization indicated by the operators of both plants, otherwise as Class I milk, if transferred from a pool plant to the pool plant of another handler, subject to the following conditions:

(1) The skim milk or butterfat so assigned to either class shall be limited to the amount thereof remaining in such class in the transferee plant after computations pursuant to § 1079.46(a)(8) and the corresponding step of § 1079.46(b);

(2) If the transferor plant received during the month other source milk to be allocated pursuant to § 1079.46(a)(3) and the corresponding step of § 1079.46(b), the skim milk and butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor handler received during the month other source milk to be allocated pursuant to § 1079.46(a)(7) and (8) and the corresponding steps of § 1079.46(b), the skim milk and butterfat so transferred up to the total of such receipts shall not be classified as Class I milk to a greater extent than would be applicable to a like quantity of such other source milk received at the transferee plant;

(b) As Class I milk, if transferred from an approved plant to a producer-handler;

(c) As Class I milk, if transferred or diverted from an approved plant to a nonpool plant that is neither an other order plant nor a producer-handler plant, located more than 150 miles by the shortest highway distance as determined by the market administrator, from the nearest of the Post Offices of Corydon, Creston, Des Moines, Grinnell, Jefferson, and Ottumwa, Iowa;

(d) As Class I milk, if transferred or diverted from an approved plant in bulk to a nonpool plant that is neither an other order plant nor a producer-handler plant, located not more than 150 miles by the shortest highway distance, as determined by the market administrator, from the nearest of the Post Offices of Corydon, Creston, Des Moines, Grinnell, Jefferson, and Ottumwa, unless the requirements of subparagraphs (1) and (2) of this paragraph are met, in which case the skim milk and butterfat so transferred or diverted shall be classified in accordance with the assignment resulting from subparagraph (3) of this paragraph:

(1) The transferring or diverting handler claims classification pursuant to the assignment set forth in subparagraph (3) of this paragraph in his report submitted to the market administrator pursuant to § 1079.30 for the month within which such transaction occurred;

(2) The operator of such nonpool plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for the purpose of verification; and

(3) The skim milk and butterfat so transferred shall be classified on the basis of the following assignment of utilization at such nonpool plant in excess of receipts of packaged fluid milk products from all pool plants and other order plants:

(i) Any Class I utilization disposed of on routes in the marketing area shall be first assigned to the skim milk and butterfat in the fluid milk products so transferred or diverted from pool plants, next pro rata to receipts from other order plants and thereafter to receipts from dairy farmers who the market administrator determines constitute regular sources of supply of Grade A milk for such nonpool plant;

(ii) Any Class I utilization disposed of on routes in the marketing area of another order issued pursuant to the Act shall be first assigned to receipts from plants fully regulated by such order, next pro rata to receipts from pool plants and other order plants not regulated by such order, and thereafter to receipts from dairy farmers who the market administrator determines constitute regular sources of supply for such nonpool plant;

(iii) Class I utilization (except in ungraded cream disposed of for manufacturing uses) in excess of that assigned pursuant to subdivisions (i) and (ii) of this subparagraph shall be assigned first to remaining receipts from dairy farmers who the market administrator determines constitute the regular source of supply for such nonpool plant and Class I utilization in excess of such receipts shall be assigned pro rata to unassigned receipts at such nonpool plant from all pool and other order plants; and

(iv) To the extent that Class I utilization is not so assigned to it, the skim milk and butterfat so transferred shall be classified as Class II milk;

(e) As follows, if transferred to an other order plant in excess of receipts from such plant in the same category as described in subparagraph (1), (2), or (3) of this paragraph:

(1) If transferred in packaged form, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated as a fluid milk product under the other order (including allocation under the conditions set forth in subparagraph (3) of this paragraph);

(3) If the operators of both the transferor and transferee plants so request in the reports of receipts and utilization filed with their respective market administrators, transfers in bulk form shall be classified as Class II to the extent of the Class II utilization (or comparable utilization under such other order) available for such assignment pursuant to the allocation provisions of the transferee order;

(4) If information concerning the classification to which allocated under the other order is not available to the market administrator for purposes of establishing classification pursuant to this paragraph, classification shall be as Class I, subject to adjustment when such information is available;

(5) For purposes of this paragraph, if the transferee order provides for more than two classes of utilization, milk allocated to a class consisting primarily of fluid milk products shall be classified as Class I, and milk allocated to other classes shall be classified as Class II; and

(6) If the form in which any fluid milk product is transferred to an other order plant is not defined as a fluid milk product under such other order, classification shall be in accordance with the provisions of § 1079.41.

9. Section 1079.46 is revised to read as follows:

§ 1079.46 Allocation of skim milk and butterfat classified.

After making the computations pursuant to § 1079.45, the market administrator shall determine the classification of approved milk received at each approved plant each month as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class II the pounds of skim

milk classified as Class II pursuant to § 1079.41(b)(5);

(2) Subtract from the remaining pounds of skim milk in each class the pounds of skim milk in fluid milk products received in packaged form from other order plants as follows:

(i) From Class II milk, the lesser of the pounds remaining or two percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(3) Subtract successively from the pounds of skim milk remaining in each class, in series beginning with Class II, the pounds of skim milk in each of the following:

(i) Other source milk in a form other than that of a fluid milk product;

(ii) Receipts of fluid milk products for which Grade A certification is not established, or which are from unidentified sources; and

(iii) Receipts of fluid milk products from a producer-handler, as defined under this or any other Federal order;

(4) Subtract, in the order specified below, from the pounds of skim milk remaining in Class II:

(i) The pounds of skim milk in receipts of fluid milk products from unregulated supply plants for which the handler requests Class II utilization, but not in excess of the pounds of skim milk remaining in Class II;

(ii) The pounds of skim milk remaining in receipts of fluid milk products from unregulated supply plants which are in excess of the pounds of skim milk determined as follows:

(*a*) Multiply the pounds of skim milk remaining in Class I milk (exclusive of Class I transfers between pool plants of the handler) at all pool plants of the handler by 1.25;

(*b*) Subtract from the result the sum of the pounds of skim milk at all such plants in producer milk, in receipts from other pool handlers and in receipts in bulk from other order plants; and

(*c*)(*1*) Multiply any resulting plus quantity by the percentage that receipts of skim milk in fluid milk products from unregulated supply plants remaining at this plant is of all such receipts remaining at all pool plants of such handler, after any deductions pursuant to subdivision (i) of this subparagraph.

(*2*) Should such computation result in a quantity to be subtracted from Class II which is in excess of the pounds of skim milk remaining in Class II, the pounds of skim milk in Class II shall be increased to the quantity to be subtracted and the pounds of skim milk in Class I shall be decreased a like amount. In such case the utilization of skim milk at other pool plant(s) of such handler shall be adjusted in the reverse direction by an identical amount in sequence beginning with the nearest other pool plant of such handler at which such adjustment can be made.

(iii) The pounds of skim milk in receipts of fluid milk products in bulk from an other order plant in excess of similar transfers to such plant, but not in excess of the pounds of skim milk remaining in Class II milk, if Class II utilization was requested by the operator of such plant and the handler;

(5) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class II, the pounds of skim milk in inventory of fluid milk products on hand at the beginning of the month;

(6) Add to the remaining pounds of skim milk in Class II milk the pounds subtracted pursuant to subparagraph (1) of this paragraph;

(7)(i) Subtract from the pounds of skim milk remaining in each class, pro rata to the total pounds of skim milk remaining in each class in all pool plants of the receiving handler, the pounds of skim milk in receipts of fluid milk products from unregulated supply plants that were not subtracted pursuant to subparagraph (4) (i) or (ii) of this paragraph;

(ii) Should such proration result in the amount to be subtracted from any class exceeding the pounds of skim milk remaining in such class in the pool plant at which such skim milk was received, the pounds of skim milk in such class shall be increased to the amount to be subtracted and the pounds of skim milk in the other class shall be decreased a like amount. In such case the utilization of milk at other pool plant(s) of such handler shall be adjusted in the reverse direction by an identical amount in sequence beginning with the nearest other pool plant of such handler at which such adjustment can be made;

(8) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of fluid milk products in bulk from an other order plant, in excess in each case of similar transfers to the same plant, that were not subtracted pursuant to subparagraph (4)(iii) of this paragraph pursuant to the following procedure:

(i) Subject to the provisions of subdivisions (ii) and (iii) of this subparagraph, such subtraction shall be prorata to whichever of the following represents the higher proportion of Class II milk:

(*a*) The estimated utilization of skim milk in each class, by all handlers, as announced for the month pursuant to § 1079.27(1); or

(*b*) The pounds of skim milk in each class remaining at all pool plants of the handler;

(ii) Should proration pursuant to subdivision (i) of this subparagraph result in the total pounds of skim milk to be subtracted from Class II at all pool plants of the handler exceeding the pounds of skim milk remaining in Class II at such plants, the pounds of such excess shall be subtracted from the pounds of skim milk remaining in Class I after such proration at the pool plants at which received;

(iii) Except as provided in subdivision (ii) of this subparagraph, should proration pursuant to either subdivision (i) or (ii) of this subparagraph result in the amount to be subtracted from either class exceeding the pounds of skim milk remaining in such class in the pool plant at which such skim milk was received, the pounds of skim milk in such class shall be increased to the amount to be subtracted and the pounds of skim milk in the other class shall be decreased a like amount. In such case the utilization of milk at other pool plant(s) of such handler shall be adjusted in the reverse direction by an identical amount in sequence beginning with the nearest other pool plant of such handler at which such adjustment can be made.

(9) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk received in fluid milk products from other pool plants according to the classification assigned pursuant to § 1079.44;

(10) If the pounds of skim milk remaining in both classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class II. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) Combine the amounts of skim milk and butterfat determined pursuant to paragraphs (a) and (b) of this section into one total for each class and determine the weighted average butterfat content of producer milk in each class.

10. Section 1079.52 is revised to read as follows:

§ 1079.52 Location differentials to handlers.

(a) For approved milk received at an approved plant located 60 miles or more by the shortest hard-surfaced highway distance, as measured by the market administrator, from the Post Offices of Corydon, Creston, Des Moines, Grinnell, Jefferson, and Ottumwa, Iowa; and classified as Class I milk or assigned Class I location adjustment credit pursuant to paragraph (b) of this section and for other source milk for which a location adjustment is applicable, the price specified in § 1079.50 shall be reduced by 10 cents, plus 1.5 cents for each 10 miles or fraction thereof that such distance exceeds 75 miles; and

(b) For purposes of calculating such adjustment, transfers between pool plants shall be assigned to Class I disposition remaining at the transferee plant after computations pursuant to § 1079.46(a)(8) and the corresponding step of § 1079.46(b) in excess of 95 percent of receipts of approved milk at such plant, such assignment to be made first to transferor plants at which no location adjustment credit is applicable and then in sequence beginning with the plant at which the least location adjustment would apply.

11. Section 1079.62 is revised to read as follows:

§ 1079.62 Obligations of handler operating a partially regulated distributing plant.

Each handler who operates a partially regulated distributing plant shall pay to the market administrator for the producer-settlement fund on or before the 25th day after the end of the month either of the amounts (at the handler's

election) calculated pursuant to paragraph (a) or (b) of this section. If the handler fails to report pursuant to §§ 1079.30 and 1079.31(b)(1) the information necessary to compute the amount specified in paragraph (a) of this section, he shall pay the amount computed pursuant to paragraph (b) of this section:

(a) An amount computed as follows:

(1)(i) The obligation that would have been computed pursuant to § 1079.70 at such plant shall be determined as though such plant were a pool plant. For purposes of such computation, receipts at such nonpool plant from a pool plant or an other order plant shall be assigned to the utilization at which classified at the pool plant or other order plant and transfers from such nonpool plant to a pool plant or an other order plant shall be classified as Class II milk if allocated to such class at the pool plant or other order plant and be valued at the weighted average price of the respective order if so allocated to Class I milk. There shall be included in the obligation so computed a charge in the amount specified in § 1079.70(e) and a credit in the amount specified in § 1079.84(b)(2) with respect to receipts from an unregulated supply plant, unless an obligation with respect to such plant is computed as specified below in this subparagraph.

(ii) If the operator of the partially regulated distributing plant so requests, and provides with his reports pursuant to §§ 1079.30 and 1079.31(b)(1) similar reports with respect to the operations of any other nonpool plant which serves as a supply plant for such partially regulated distributing plant by shipments to such plant during the month equivalent to the requirements of § 1079.12(b) with agreement of the operator of such plant that the market administrator may examine the books and records of such plant for purposes of verification of such reports, there will be added the amount of the obligation computed at such nonpool supply plant in the same manner and subject to the same conditions as for the partially regulated distributing plant.

(2) From this obligation there will be deducted the sum of (i) the gross payments made by such handler for Grade A milk received during the month from dairy farmers at such plant and like payments made by the operator of a supply plant(s) included in the computations pursuant to subparagraph (1) of this paragraph, and (ii) any payments to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant.

(b) An amount computed as follows:

(1) Determine the respective amounts of skim milk and butterfat disposed of as Class I milk on routes in the marketing area;

(2) Deduct the respective amounts of skim milk and butterfat received as Class I milk at the partially regulated distributing plant from pool plants and other order plants except that deducted under a similar provision of another order issued pursuant to the Act;

(3) Combine the amounts of skim milk and butterfat remaining into one total and determine the weighted average butterfat content; and

(4) From the value of such milk at the Class I price applicable at the location of the nonpool plant, subtract its value at the weighted average price applicable at such location (not to be less than the Class II price).

§ 1079.63 [Revocation]

12. Section 1079.63 is revoked.

13. Section 1079.70 is revised to read as follows:

§ 1079.70 Computation of the net pool obligation of each pool handler.

The net pool obligation of each pool handler during each month shall be a sum of money computed by the market administrator as follows:

(a) Multiply the quantity of producer milk in each class, as computed pursuant to § 1079.46(c), by the applicable class prices (adjusted pursuant to §§ 1079.51 and 1079.52);

(b) Add the amount obtained from multiplying the pounds of overage deducted from each class pursuant to § 1079.46(a)(10) and the corresponding step of § 1079.46(b) by the applicable class prices;

(c) Add the amount obtained from multiplying the difference between the Class II price for the preceding month and the Class I price for the current month by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1079.46(a)(5) and the corresponding step of § 1079.46(b);

(d) Add an amount equal to the difference between the value at the Class I price applicable at the pool plant and the value at the Class II price, with respect to skim milk and butterfat in other source milk subtracted from Class I pursuant to § 1079.46(a)(3) and the corresponding step of § 1079.46(b);

(e) Add an amount equal to the value at the Class I price, adjusted for location of the nearest nonpool plant(s) from which an equivalent volume was received, with respect to skim milk and butterfat subtracted from Class I pursuant to § 1079.46(a)(7) and the corresponding step of § 1079.46(b).

14. In § 1079.71, paragraph (b) is revised to read as follows:

§ 1079.71 Computation of aggregate value used to determine uniform price.

* * * * *

(b) Add or subtract for each one-tenth percent that the average butterfat content of the milk specified in § 1079.72(a) is less or more, respectively, than 3.5 percent, an amount computed by multiplying such differences by the butterfat differential to producers, and multiplying the result by the hundredweight of such milk;

15. Section 1079.72 is revised to read as follows:

§ 1079.72 Computation of weighted average price.

For each month the market administrator shall compute a weighted average price for milk of 3.5 percent butterfat content, f.o.b. pool plants located within the base zone, as follows:

(a) Divide the aggregate value computed pursuant to § 1079.71 by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1079.70(e); and

(b) Subtract not less than four cents nor more than five cents from the price computed pursuant to paragraph (a) of this section. The result shall be known as the "weighted average price", and, except for the months of March through June, shall be the uniform price for milk received from producers.

16. In § 1079.73, paragraph (d) is revised to read as follows:

§ 1079.73 Computation of uniform price for base milk and excess milk.

* * * * *

(d) From the aggregate value of all milk obtained in § 1079.71 subtract the following:

(1) An amount computed by multiplying the hundredweight of milk specified in § 1079.72(a)(2) by the weighted average price; and

(2) The value of excess milk pursuant to paragraph (c) of this section; and

§ 1079.80 [Amendment]

17. In § 1079.80 the reference in the introductory text of paragraph (a) "paragraph (c)" is changed to "paragraph (b)", paragraph (b) is revoked, and paragraphs (c) and (d) are redesignated (b) and (c).

18. In § 1079.82, a new paragraph (c) is added and reads as follows:

§ 1079.82 Location differentials to producers and on nonpool milk.

* * * * *

(c) For purposes of computations pursuant to §§ 1079.84 and 1079.85 the weighted average price shall be adjusted at the rates set forth in § 1079.52 applicable at the location of the nonpool plant from which the milk was received.

§ 1079.83 [Amendment]

19. In § 1079.83 the reference "1079.80," is revoked.

20. Section 1079.84 is revised to read as follows:

§ 1079.84 Payments to the producer-settlement fund.

On or before the 12th day after the end of the month each handler shall pay to the market administrator the amount, if any, by which the total amounts specified in paragraph (a) of this section exceed the amounts specified in paragraph (b) of this section:

(a) The total of the net pool obligation computed pursuant to § 1079.70 for such handler; and

(b) The sum of

(1) The amount of the obligation pursuant to § 1079.80 of such handler for producer milk received during the month; and

(2) The value at the weighted average price applicable at the location of the plant(s) from which received (not to be less than the value at the Class II price)

MILK IN NEW ORLEANS, ... health authority which milk is received ... plant or by a cooperative

with respect to other source milk for which a value is computed pursuant to § 1079.70(e).

21. Section 1079.85 is revised to read as follows:

§ 1079.85 Payments out of the producer-settlement fund.

On or before the 13th day after the end of each month the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1079.84(b) exceeds the amount computed pursuant to § 1079.84(a): *Provided,* That if the balance in the producer-settlement fund is insufficient to make all payments pursuant to this section, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the necessary funds are available. A handler who has not received the balance of such payments from the market administrator shall not be considered in violation of § 1079.80 if he reduces his payments to producers by not more than the amount of the reduction in payment from the producer-settlement fund.

22. Section 1079.88 is revised to read as follows:

§ 1079.88 Expense of administration.

As his pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 15th day after the end of the month four cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect to (a) producer milk, (b) other source milk allocated to Class I pursuant to § 1079.46(a) (3) and (7) and the corresponding steps of § 1079.46 (b), and (c) Class I milk disposed of from a partially regulated distributing plant on routes in the marketing area that exceeds Class I milk received during the month at such plant from pool plants and other order plants.

PART 1094—MILK IN NEW ORLEANS, LA., MARKETING AREA

1. Section 1094.11 is revised to read as follows:

§ 1094.11 Nonpool plant.

"Nonpool plant" means any milk receiving, manufacturing or processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant, from which fluid milk products labeled Grade A in consumer-type packages or dispenser units are distributed on routes in the marketing area during the month.

(d) "Unregulated supply plant" means a nonpool plant from which fluid milk products eligible for distribution in the marketing area under a Grade A label are moved to a pool plant during the month, but which is neither an other order plant nor a producer-handler plant.

2. In § 1094.12, paragraph (b) is revised and a new paragraph (e) is added to read as follows:

§ 1094.12 Handler.

* * * * *

(b) Any person who operates a partially regulated distributing plant; or

* * * * *

(e) A producer-handler, or any person who operates an other order plant described in § 1094.63.

3. In § 1094.14, the introductory text preceding paragraph (a) is revised to read as follows:

§ 1094.14 Producer.

"Producer" means any person, other than a producer-handler as defined in any order (including this part) issued pursuant to the Act, who produces milk in compliance with the Grade A inspection requirements of a duly constituted health authority which milk is received at a pool plant or by a cooperative association pursuant to § 1094.12(d) or is diverted pursuant to paragraphs (a) through (c) of this section: *Provided,* That milk so diverted shall be deemed to have been received at the location of the pool plant from which diverted:

4. In § 1094.22, additional paragraphs (l), (m), and (n) are added and read as follows:

§ 1094.22 Duties.

* * * * *

(l) Whenever required for purpose of allocating receipts from other order plants pursuant to § 1094.46(a)(8) and the corresponding step of § 1094.46(b), the market administrator shall estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose;

(m) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products from an other order plant, the classification to which such receipts are allocated pursuant to § 1094.46 pursuant to such report, and thereafter any change in such allocation required to correct errors disclosed in verification of such report; and

(n) Furnish to each handler operating a pool plant who has shipped fluid milk products to an other order plant, the classification to which the skim milk and butterfat in such fluid milk products were allocated by the market administrator of the other order on the basis of the report of the receiving handler; and, as necessary, any changes in such classification arising in the verification of such report.

4a. Section 1094.30 is revised to read as follows:

§ 1094.30 Reports of receipts and utilization.

On or before the 5th day of each month each handler shall report for the preceding month to the market administrator in the detail and on forms pre-

scribed by the market administrator as follows:

(a) Each handler who operates a pool plant(s), and any cooperative association with respect to milk for which it is a handler pursuant to § 1094.12 (c) or (d) shall report the quantities of skim milk and butterfat contained in:

(1) Producer milk, and for each month of the base-operating period, the total quantities of base and excess milk received;

(2) Milk received from a cooperative association in its capacity as a handler pursuant to § 1094.12(d);

(3) Fluid milk products received from other pool plants;

(4) Other source milk;

(5) Inventories of fluid milk products on hand at the beginning and end of the month;

(6) The utilization of all skim milk and butterfat required to be reported pursuant to this paragraph, including a separate statement with respect to Class I milk disposed of inside the marketing area; and

(7) Such other information with respect to sources and utilization of skim milk and butterfat as the market administrator may prescribe.

(b) Each handler specified in § 1094.12 (b) who operates a partially regulated distributing plant shall report in the same manner as required in paragraph (a) of this section with respect to all receipts and utilization, except that receipts in Grade A milk from dairy farmers shall be reported in lieu of those in producer milk and base and excess milk; such report shall include a separate statement showing the respective amounts of skim milk and butterfat disposed of on routes in the marketing area as Class I milk.

5. In § 1094.31, the section heading and paragraph (c) are revised. The section heading and paragraph (c) now read as follows:

§ 1094.31 Payroll reports.

* * * * *

(c) Each handler operating a partially regulated distributing plant who does not elect to make payments pursuant to § 1094.62(b) shall report to the market administrator on or before the 20th day after the end of the month his payments to dairy farmers qualified to be producers as if such plant were a pool plant, showing for each such dairy farmer:

(1) The pounds of milk received;

(2) The average butterfat content thereof; and

(3) The date and net amount of payment to such dairy farmer with a statement of the prices, deductions and charges used in computing such payment and the nature of each.

6. Section 1094.32 is revised to read as follows:

§ 1094.32 Other reports.

(a) Each producer-handler shall make reports to the market administrator at such time and in such manner as the market administrator shall request.

(b) Each handler who operates an other order plant with disposition of fluid milk products on routes in the marketing area shall report such disposition to the market administrator on or before the 7th day after the end of each month.

7. In § 1094.41(b), subparagraph (6) is revised and a new subparagraph (7) is added to read as follows:

§ 1094.41 Classes of utilization.

* * * * *

(b) * * *

(6) In shrinkage of skim milk and butterfat, respectively, assigned pursuant to § 1094.42(b)(1), but not to exceed the following:

(i) Two percent of fluid milk products received directly from producers; plus

(ii) One and one-half percent of fluid milk products received in bulk from pool plants of other handlers; plus

(iii) One and one-half percent of fluid milk products received from a cooperative association which is the handler for such milk pursuant to § 1094.12 (d); plus

(iv) One and one-half percent of receipts of fluid milk products in bulk from an other order plant, exclusive of the quantity for which Class II utilization was requested by the operator of such plant and the handler; plus

(v) One and one-half percent of receipts of fluid milk products in bulk from unregulated supply plants, exclusive of the quantity for which Class II utilization was requested by the handler; less

(vi) One and one-half percent of fluid milk products disposed of in bulk to plants of other handlers and to nonpool plants; and

(7) In shrinkage of skim milk and butterfat, respectively, assigned pursuant to § 1094.42(b)(2).

§§ 1094.43 and 1094.44 [Redesignations]

8. Sections 1094.42 and 1094.43 are renumbered and redesignated as §§ 1094.43 and 1094.44, respectively. A new § 1094.42 is added to read as follows:

§ 1094.42 Shrinkage.

The market administrator shall allocate shrinkage over a handler's receipts as follows:

(a) Compute the total shrinkage of skim milk and butterfat, respectively, for each handler; and

(b) Prorate the resulting amounts between the receipts of skim milk and butterfat contained in:

(1) Items specified in § 1094.41(b)(6)(i) through (v); and

(2) Remaining receipts of other source milk in bulk.

9. Section 1094.44 (formerly § 1094.43) is revised to read as follows:

§ 1094.44 Transfers.

Skim milk and butterfat transferred or diverted from a pool plant (including milk transferred by a cooperative association in its capacity as a handler pursuant to § 1094.12(d)) in the form of a fluid milk product shall be classified as follows:

(a) Except as provided in paragraph (f) of this section, at the utilization indicated by the operators of both plants if such fluid milk products are moved in bulk to a pool plant, otherwise as Class I milk, subject in either event to the following conditions:

(1) The skim milk or butterfat so assigned to either class shall be limited to the amount thereof remaining in such class in the plant(s) of the transferee handler after computations pursuant to § 1094.46(a)(8) and the corresponding step of § 1094.46(b);

(2) If the transferor handler received during the month other source milk to be allocated pursuant to § 1094.46(a)(3) and the corresponding step of § 1094.46 (b), the skim milk and butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor handler received during the month other source milk to be allocated pursuant to § 1094.46(a)(7) or (8) and the corresponding steps of § 1094.46(b), the skim milk and butterfat so transferred up to the total of such receipts shall not be classified as Class I milk to a greater extent than would be applicable to a like quantity of such other source milk received at the transferee plant;

(b) As Class I milk, if such fluid milk products are moved to a plant operated by a producer-handler;

(c) As Class I milk, if such fluid milk products are moved in bulk to a nonpool plant that is neither an other order plant nor a producer-handler plant located more than 350 miles by the shortest highway distance from the City Hall in New Orleans, Louisiana, as determined by the market administrator, unless claimed and transferred in the form of cream in bulk to such a nonpool plant which does not dispose of milk or cream for consumption in fluid form;

(d) To the extent that fluid milk products moved to an other order plant are in excess of receipts from such other order plant in the same category as described in subparagraph (1), (2) or (3) of this paragraph, such fluid milk products shall be classified as follows:

(1) If transferred in packaged form, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If moved in bulk form, classification shall be in the classes to which allocated as a fluid milk product under the other order (including allocation under the conditions set forth in subparagraph (3) of this paragraph);

(3) If the operators of both the transferor and transferee plants so request in the reports of receipts and utilization filed with their respective market administrators, transfers in bulk form shall be classified as Class II to the extent of the Class II utilization (or comparable utilization under such other order) available for such assignment pursuant to the allocation provisions of the transferee order;

(4) If information concerning the classification to which allocated under the other order is not available to the market administrator for purposes of establishing classification pursuant to this paragraph, classification shall be as

Class I, subject to adjustment when such information is available;

(5) For purposes of this paragraph, if the transferee order provides for more than two classes of utilization, milk allocated to a class consisting primarily of fluid milk products shall be classified as Class I, and milk allocated to other classes shall be classified as Class II; and

(6) If the form in which any fluid milk product is transferred to an other order plant is not defined as a fluid milk product under such other order, classification shall be in accordance with the provisions of § 1094.41;

(e) As Class I milk, if such fluid milk products are moved in bulk to a nonpool plant that is neither an other order plant nor a producer-handler plant located not more than 350 miles by the shortest highway distance from the City Hall in New Orleans, Louisiana, as determined by the market administrator, unless the requirements of subparagraphs (1) and (2) of this paragraph are met, in which case the skim milk and butterfat shall be classified in accordance with the assignments resulting from subparagraph (3) of this paragraph;

(1) The transferring or diverting handler claims classification pursuant to the assignment set forth in subparagraph (3) of this paragraph in his report submitted to the market administrator pursuant to § 1094.30 for the month within which such transaction occurred;

(2) The operator of such nonpool plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator and are adequate for verification of the Class II usage claimed; and

(3) The skim milk and butterfat so transferred shall be classified on the basis of the following asignment of utilization at such nonpool plant in excess of receipts of packaged fluid milk products from all pool plants and other order plants:

(i) Any Class I utilization disposed of on routes in the marketing area shall be first assigned to the skim milk and butterfat in the fluid milk products so transferred or diverted from pool plants;

(ii) Any Class I utilization disposed of on routes in the marketing area of another order issued pursuant to the Act shall be first assigned to receipts from plants fully regulated by such order, next pro rata to receipts from pool plants and other order plants not regulated by such order;

(iii) Remaining quantities of skim milk and butterfat transferred to the nonpool plant shall be assigned next to the skim milk and butterfat in transfers of milk, skim milk, and cream in bulk from the nonpool plant to pool plants, classified as if it were a direct transfer pursuant to paragraph (a) of this section from one pool plant to another pool plant with Class II utilization indicated: *Provided,* That if the classification limitations provided in paragraph (a) of this section result in any skim milk or butterfat being classified as Class I from pool plants of two or more handlers, such classification shall be shared pro rata between such handlers unless, at or before the time of reporting, signed statements by operators of such plants indicate agreement on a different sharing of such Class I classification;

(iv) Remaining quantities of skim milk and butterfat transferred to the nonpool plant from a pool plant(s) and from a plant(s) at which milk is priced under another order issued pursuant to the Act shall be assigned (after the application of provisions of any other order similar to subdivision (iii) of this subparagraph) to the skim milk and butterfat, respectively, resulting from the following computation:

(*a*) Determine the skim milk and butterfat, respectively, in Class II (as defined pursuant to § 1094.41(b)(1)) at such nonpool plant during the month;

(*b*) Subtract the overage or add the actual shrinkage not to exceed two percent of total receipts of skim milk and butterfat, respectively, in total fluid receipts physically received at such nonpool plant during the month;

(*c*) Add the increases or subtract the decreases of skim milk and butterfat, respectively, in the inventory of fluid milk products at the end of each month at such nonpool plant as compared with that at the beginning of the month;

(*d*) Add the skim milk and butterfat, respectively, in milk, skim milk, or cream transferred in bulk from such nonpool plant to a plant at which milk is priced under this or another order issued pursuant to the Act which milk is allocated to other than Class I under the applicable order provisions at the transferee plant, but excluding any such transfer(s) that is classified under such other order pursuant to provisions similar to subdivision (iii) of this subparagraph;

(*e*) Add the skim milk and butterfat, respectively, in fluid bulk cream transferred from such nonpool plant to a second nonpool plant meeting the conditions of subparagraph (2) of this paragraph, other than an other order plant or producer-handler plant, which skim milk or butterfat is not in excess of Class II (pursuant to § 1094.41(b)(1)) processed in such second nonpool plant plus the bulk fluid cream shipped therefrom to other nonpool plants which do not dispose of milk or cream in consumer packages for consumption in fluid form; and

(*f*) Subtract the skim milk and butterfat, respectively, received at such nonpool plant from any source(s) other than that which has been approved by a governmental agency as a source(s) of Grade A fluid milk products. In the event that the remaining skim milk and butterfat, respectively, is less than the skim milk and butterfat, respectively, received at such nonpool plant from a pool plant(s) and from a plant(s) at which milk is priced under another order issued pursuant to the Act, the difference shall be assigned pro rata to each such plant (in accordance with receipts of skim milk and butterfat, respectively, from all plants regulated pursuant to the Act) and shall be classified as Class I milk; and

(f) Unless a different utilization is claimed by both handlers pursuant to paragraph (a) of this section, skim milk and butterfat transferred to the pool plant of another handler by a cooperative association in its capacity as the operator of a pool plant or a handler pursuant to § 1094.12(d) shall be classified pro rata to the respective amounts thereof remaining in each class for such months at the pool plant of the receiving handler after the computations pursuant to § 1094.46(a)(9) and the corresponding step of § 1094.46(b).

10. Section 1094.46 is revised to read as follows:

§ 1094.46 Allocation of skim milk and butterfat classified.

After making the computations pursuant to § 1094.45, the market administrator shall determine the classification of producer milk for each handler as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class II the pounds of skim milk classified as Class II pursuant to § 1094.41(b)(6);

(2) Subtract from the remaining pounds of skim milk in each class the pounds of skim milk in fluid milk products received in packaged form from other order plants as follows:

(i) From Class II milk, the lesser of the pounds remaining or two percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(3) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class II, the pounds of skim milk in each of the following:

(i) Other source milk in a form other than that of a fluid milk product;

(ii) Receipts of fluid milk products for which Grade A certification is not established, or which are from unidentified sources; and

(iii) Receipts of fluid milk products from a producer-handler, as defined under this or any other Federal order;

(4) Subtract, in the order specified below, from the pounds of skim milk remaining in Class II but not in excess of such quantity:

(i) Receipts of fluid milk products from an unregulated supply plant:

(*a*) For which the handler requests Class II utilization; or

(*b*) Which are in excess of the pounds of skim milk determined by multiplying the pounds of skim milk remaining in Class I milk by 1.25 and subtracting the sum of the pounds of skim milk in producer milk, receipts from pool plants of other handlers, receipts from a cooperative association in its capacity as a handler pursuant to § 1094.12(d) and receipts in bulk from other order plants; and

(ii) Receipts of fluid milk products in bulk from an other order plant in excess of similar transfers to such plant, if Class II utilization was requested by the operator of such plant and the handler;

(5) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class II, the pounds of skim

milk in inventory of fluid milk products on hand at the beginning of the month;

(6) Add to the remaining pounds of skim milk in Class II milk the pounds subtracted pursuant to subparagraph (1) of this paragraph;

(7) Subtract from the pounds of skim milk remaining in each class, pro rata to such quantities, the pounds of skim milk in receipts of fluid milk products from unregulated supply plants which were not subtracted pursuant to subparagraph (4)(i) of this paragraph;

(8) Subtract from the pounds of skim milk remaining in each class, in the following order, the pounds of skim milk in receipts of fluid milk products in bulk from an other order plant(s), in excess in each case of similar transfers to the same plant, which were not subtracted pursuant to subparagraph (4)(ii) of this paragraph:

(i) In series beginning with Class II, the pounds determined by multiplying the pounds of such receipts by the larger of the percentage of estimated Class II utilization of skim milk announced for the month by the market administrator pursuant to § 1094.22(1) or the percentage that Class II utilization remaining is of the total remaining utilization of skim milk of the handler; and

(ii) From Class I, the remaining pounds of such receipts;

(9) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk received in fluid milk products from pool plants of other handlers and from a cooperative association as a handler pursuant to § 1094.12(d), according to the classification assigned pursuant to § 1094.44(a);

(10) Subtract pro rata from the pounds of skim milk remaining in each class, the pounds of skim milk to be classified pursuant to § 1094.44(f); and

(11) If the pounds of skim milk remaining in both classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class II. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) Combine the amounts of skim milk and butterfat determined pursuant to paragraphs (a) and (b) of this section into one total for each class and determine the weighted average butterfat content of producer milk in each class.

§§ 1094.47, 1094.48 [Revocations]

10a. Sections 1094.47 and 1094.48 are revoked.

11. Section 1094.53 is revised to read as follows:

§ 1094.53 Location differentials to handlers.

(a) For that milk which is received from producers or from a cooperative association as a handler pursuant to § 1094.12(d) at a pool plant more than 50 miles by shortest toll-free highway distance, as determined by the market administrator, from the nearer of the City Hall in New Orleans or the Terrebonne Parish Courthouse in Houma, Louisiana, and utilized as Class I milk or assigned Class I location adjustment credit pursuant to paragraph (b) of this section and for other source milk for which a location adjustment is applicable, the price specified in § 1094.51(a) shall be reduced at the rate set forth in the following schedule according to the location of the pool plant where such milk is received from producers:

	Rate per hundredweight (cents)
Zones measured from the nearer of the City Hall in New Orleans or the Terrebonne Parish Courthouse in Houma, Louisiana (miles):	
More than 50 but not more than 60	13.5
Each additional 10 miles or fraction thereof	1.5

(b) For purposes of calculating such adjustment, transfers between pool plants shall be assigned Class I disposition at the transferee plant, in excess of the sum of receipts at such plant from producers, and the pounds assigned as Class I to receipts from other order plants and unregulated supply plants, such assignment to be made first to transferor plants at which no location adjustment credit is applicable and then in sequence beginning with the plant at which the least location adjustment would apply.

(c) For (1) milk received from producers at a pool plant more than 50 miles, by the shortest toll-free highway distance, as determined by the market administrator, from the nearer of the City Hall in New Orleans or the Terrebonne Parish Courthouse, Houma, Louisiana, and classified as Class II and (2) for milk received from producers at a pool plant 50 miles or less from the basing points in New Orleans or Houma and classified as Class II pursuant to § 1094.41(b) (3), (4), and (6) shall be reduced by 13.5 cents.

(d) The market administrator shall determine and publicly announce the zone location of each plant of each handler according to the shortest toll-free highway distance between such plant and the City Hall in New Orleans or the Terrebonne Parish Courthouse in Houma. The market administrator shall notify the handler on or before the first day of any month in which a change in a plant location zone will apply.

§ 1094.54 [Revocation]

12. Section 1094.54 is revoked.

§ 1094.55 [Redesignation]

12a. Section 1094.55 is redesignated as § 1094.54.

13. Section 1094.62 is revised to read as follows:

§ 1094.62 Obligations of handler operating a partially regulated distributing plant.

Each handler who operates a partially regulated distributing plant shall pay to the market administrator for the producer-settlement fund on or before the 25th day after the end of the month either of the amounts (at the handler's election) calculated pursuant to paragraph (a) or (b) of this section. If the handler fails to report pursuant to §§ 1094.30(b) and 1094.31(c) the information necessary to compute the amount specified in paragraph (a) of this section, he shall pay the amount computed pursuant to paragraph (b) of this section:

(a) An amount computed as follows:

(1)(i) The obligation that would have been computed pursuant to § 1094.70 at such plant shall be determined as though such plant were a pool plant. For purposes of such computation, receipts at such nonpool plant from a pool plant or an other order plant shall be assigned to the utilization at which classified at the pool plant or other order plant and transfers from such nonpool plant to a pool plant or an other order plant shall be classified as Class II milk if allocated to such class at the pool plant or other order plant and be valued at the weighted average price of the respective order if so allocated to Class I milk. There shall be included in the obligation so computed a charge in the amount specified in § 1094.70(e) and a credit in the amount specified in § 1094.82(b)(2) with respect to receipts from an unregulated supply plant, unless an obligation with respect to such plant is computed as specified below in this subparagraph.

(ii) If the operator of the partially regulated distributing plant so requests, and provides with his reports pursuant to §§ 1094.30 (b) and 1094.31 (c) similar reports with respect to the operations of any other nonpool plant which serves as a supply plant for such partially regulated distributing plant by shipments to such plant during the month equivalent to the requirements of § 1094.10(b), with agreement of the operator of such plant that the market administrator may examine the books and records of such plant for purposes of verification of such reports, there will be added the amount of the obligation computed at such nonpool supply plant in the same manner and subject to the same conditions as for the partially regulated distributing plant.

(2) From this obligation there will be deducted the sum of (i) the gross payments made by such handler for Grade A milk received during the month from dairy farmers at such plant and like payments made by the operator of a supply plant(s) included in the computations pursuant to subparagraph (1) of this paragraph, and (ii) any payments to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant.

(b) An amount computed as follows:

(1) Determine the respective amounts of skim milk and butterfat disposed of as Class I milk on routes in the marketing area;

(2) Deduct the respective amounts of skim milk and butterfat received as Class I milk at the partially regulated distributing plant from pool plants and other order plants, except that deducted under a similar provision of another order issued pursuant to the Act;

(3) Combine the amounts of skim milk and butterfat remaining into one total and determine the weighted average butterfat content; and

(4) From the value of such milk at the Class I price applicable at the location of the nonpool plant, subtract its value at the weighted average price applicable at such location (not to be less than the Class II price).

14. In § 1094.63, the introductory text just preceding paragraph (a) is revised to read as follows:

§ 1094.63 Plants subject to other Federal orders.

The handler operating a plant specified in paragraphs (a) or (b) of this section shall be exempt from all provisions of this part except §§ 1094.32, 1094.34 and 1094.35.

15. Section 1094.70 is revised to read as follows:

§ 1094.70 Computation of the net pool obligation of each pool handler.

The net pool obligation of each pool handler during each month shall be a sum of money computed by the market administrator as follows:

(a) Multiply the quantity of producer milk in each class, as computed pursuant to § 1094.46(c), by the applicable class prices (adjusted pursuant to §§ 1094.52 and 1094.53);

(b) Add the amount obtained from multiplying the pounds of overage deducted from each class pursuant to § 1094.46(a)(11) and the corresponding step of § 1094.46(b) by the applicable class prices;

(c) Add the amount obtained from multiplying the difference between the Class II price for the preceding month and the Class I price for the current month by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1094.46(a)(5) and the corresponding step of § 1094.46(b);

(d) Add an amount equal to the difference between the value at the Class I price applicable at the pool plant and the value at the Class II price, with respect to skim milk and butterfat in other source milk subtracted from Class I pursuant to § 1094.46(a)(3) and the corresponding step of § 1094.46(b); and

(e) Add an amount equal to the value at the Class I price, adjusted for location of the nearest nonpool plant(s) from which an equivalent volume was received, with respect to skim milk and butterfat subtracted from Class I pursuant to § 1094.46(a)(7) and the corresponding step of § 1094.46(b).

16. Section 1094.71 is revised to read as follows:

§ 1094.71 Computation of the 3.5 percent value of all milk.

For each month, the market administrator shall compute the 3.5 percent value of all milk specified in § 1094.72, as follows:

(a) Combine into one total the individual values of milk of all handlers computed pursuant to § 1094.70 except those of handlers who failed to make payments required pursuant to § 1094.80 through § 1094.82 for the preceding month;

(b) Add an amount equal to the total value of the location differentials computed pursuant to § 1094.76;

(c) Subtract, if the average butterfat content of the milk specified in § 1094.72 is more than 3.5 percent, or add, if such butterfat content is less than 3.5 percent, an amount computed by multiplying the amount by which the average butterfat content of such milk varies from 3.5 percent by the butterfat differential computed pursuant to § 1094.75 and multiplying the result by the total hundredweight of such milk;

(d) Add an amount equal to not less than one-half of the unobligated balance in the producer-settlement fund;

17. Section 1094.72 is revised to read as follows:

§ 1094.72 Weighted average and uniform price.

For each month the market administrator shall make the following computation:

(a) Divide the amount computed pursuant to paragraphs (a) through (d) in § 1094.71 by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk included pursuant to § 1094.71(a); and

(2) The total hundredweight for which a value is computed pursuant to § 1094.70(e);

(b) Subtract not less than four cents nor more than five cents per hundredweight. The result shall be the "weighted average price", and also the "uniform price" per hundredweight for milk of 3.5 percent butterfat received from producers in the months of August through January;

18. Section 1094.73 is revised to read as follows:

§ 1094.73 Uniform excess milk price.

For each of the months of February through July the market administrator shall compute the uniform price for excess milk containing 3.5 percent butterfat as follows:

(a) Multiply the hundredweight of excess milk not in excess of the total quantity of Class II milk represented by the values included in § 1094.71(a) by the price for 3.5 percent Class II milk pursuant to § 1094.51(b);

(b) Multiply the hundredweight of any excess milk not included in the computation described in paragraph (a) of this section by the price for 3.5 percent Class I utilization pursuant to § 1094.51(a); and

(c) Combine into one total the values computed pursuant to paragraphs (a) and (b) of this section, divide by the hundredweight of excess milk and round to the nearest cent.

19. Section 1094.74 is revised to read as follows:

§ 1094.74 Uniform base milk price.

For each of the months of February through July the market administrator shall compute the uniform price for base milk containing 3.5 percent butterfat received from producers as follows:

(a) Multiply the total pounds of excess milk by the excess price for the month;

(b) Subtract the total value arrived at in paragraph (a) of this section from the total 3.5 percent value of all producer milk arrived at in § 1094.71;

(c) From the amount resulting from the computations pursuant to paragraph (b) of this section, subtract an amount computed by multiplying the hundredweight of milk specified in § 1094.72(a)(2) by the weighted average price;

(d) Divide the amount calculated pursuant to paragraph (c) of this section by the total hundredweight of base milk for handlers included in these computations; and

(e) Subtract not less than 4 cents nor more than 5 cents from the price computed pursuant to paragraph (d) of this section. The resulting figure shall be the uniform price per hundredweight for base milk of 3.5 percent butterfat received from producers.

20. Section 1094.76 is revised to read as follows:

§ 1094.76 Location differentials to producers and on nonpool milk.

(a) The uniform price for producer milk and the uniform price for base milk received at a pool plant shall be reduced according to the location of the pool plant, each at the rates set forth in § 1094.53(a);

(b) The uniform price for excess milk received from producers at a pool plant shall be reduced according to the location of the pool plant at the rates set forth in § 1094.53(c); and

(c) For purposes of computations pursuant to §§ 1094.82 and 1094.83 the weighted average price shall be adjusted at the rates set forth in § 1094.53(a) applicable at the location of the nonpool plant from which the milk was received.

21. In § 1094.77, the introductory text preceding paragraph (a) and paragraph (c) are revised to read as follows:

§ 1094.77 Notification of handlers.

On or before the 11th day after the end of each month, the market administrator shall mail to each handler receiving milk from producers, who submitted the report(s) prescribed in § 1094.30, at his last known address a statement showing:

* * * * *

(c) The weighted average and uniform price(s) computed pursuant to §§ 1094.72 through 1094.74 and the butterfat differential computed pursuant to § 1094.75;

22. Section 1094.82 is revised to read as follows:

§ 1094.82 Payments to the producer-settlement fund.

On or before the 12th day after the end of the month each handler shall pay to the market administrator the amount, if any, by which the total amounts specified in paragraph (a) of this section exceed the amounts specified in paragraph (b) of this section:

(a) The total of the net pool obligation computed pursuant to § 1094.70 for such handlers; and

(b) The sum of:

(1) The value of such handler's producer milk at the applicable uniform

prices computed pursuant to §§ 1094.72 and 1094.73 adjusted by the producer butterfat and location differentials; and

(2) The value at the weighted average price(s) applicable at the location of the plant(s), from which received (not to be less than the value at the Class II price) with respect to other source milk for which a value is computed pursuant to § 1094.70(e).

23. Section 1094.83 is revised to read as follows:

§ 1094.83 Payments out of the producer-settlement fund.

On or before the 13th day after the end of each month the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1094.82(b) exceeds the amount computed pursuant to § 1094.82(a). If at such time the balance in the producer-settlement fund is insufficient to make all payments pursuant to this section, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the appropriate funds are available.

24. Section 1094.86 is revised to read as follows:

§ 1094.86 Expense of administration.

As his pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 15th day after the end of the month four cents per hundredweight or such lesser amount as the Secretary may, from time-to-time, prescribe, to be announced by the market administrator on or before the 11th day after the end of such month, with respect to all skim milk and butterfat received by such handler in (a) producer milk (including such handler's own production), (b) other source milk allocated to Class I pursuant to § 1094.46(a) (3) and (7) and the corresponding steps of § 1094.46 (b), and (c) Class I milk disposed of from a partially regulated distributing plant on routes in the marketing area that exceeds Class I milk received during the month at such plant from pool plants and other order plants.

25. Section 1094.90 is revised to read as follows:

§ 1094.90 Base-operating period.

The base-operating period shall be the months of February through July.

26. Section 1094.91 is revised to read as follows:

§ 1094.91 Base-forming period.

The base-forming period shall be the months of September through January immediately preceding the base-operating period.

PART 1096—MILK IN NORTHERN LOUISIANA MARKETING AREA

1. In § 1096.7 the introductory text is revised to read as follows:

§ 1096.7 Producer.

"Producer" means any person, except a producer-handler as defined in any order (including this part) issued pursuant to the Act or any person with respect to milk produced by him which is subject to the pricing and payment provisions of another order issued pursuant to the Act, who produces milk in compliance with the Grade A inspection requirements of a duly constituted health authority which milk is received at a pool plant or by a cooperative association pursuant to § 1096.8(d), or is diverted to a nonpool plant other than the plant of a producer-handler during any month(s) of February through August or in accordance with the provisions of paragraph (a), (b), or (c) of this section during any month of September through January: *Provided,* That the milk so diverted shall be deemed to have been received at the location of the pool plant from which diverted: *Provided further,* That if a handler diverting milk pursuant to paragraph (b) or (c) of this section, diverts in excess of the limits prescribed all diversions by such handler during the month shall be pursuant to paragraph (a) of this section: *And provided further,* That if a handler diverting milk pursuant to paragraph (a) of this section, diverts milk of any dairy farmer in excess of the limits prescribed, such dairy farmer shall be a producer only with respect to that milk physically received at a pool plant:

2. In § 1096.8, paragraph (b) is revised and new paragraphs (e) and (f) are added, to read as follows:

§ 1096.8 Handler.

* * * * *

(b) Any person who operates a partially regulated distributing plant;

* * * * *

(e) Any person in his capacity as the operator of an unregulated supply plant; and

(f) A producer-handler, or any person who operates an other order plant pursuant to § 1096.61.

2a. In § 1096.8 the word "and" appearing after the semicolon in paragraph (c) of this section is deleted. Also, the period appearing at the end of the last sentence in paragraph (d) of this section is deleted and a semicolon followed by the word "and" is substituted therefor.

3. Section 1096.21 is added and reads as follows:

§ 1096.21 Nonpool plant.

"Nonpool plant" means any milk receiving, manufacturing or processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant, from which fluid milk products labeled Grade A in consumer-type packages or dispenser units are distributed on routes in the marketing area during the month.

(d) "Unregulated supply plant" means a nonpool plant from which fluid milk products eligible for distribution in the marketing area under a Grade A label are moved to a pool plant during the month, but which is neither an other plant nor a producer-handler plant.

4. In § 1096.27, additional paragraphs (m), (n), and (o) are added to read as follows:

§ 1096.27 Duties.

* * * * *

(m) Whenever required for purpose of allocating receipts from other order plants pursuant to § 1096.46(a)(8) and the corresponding step of § 1096.46(b), the market administrator shall estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose;

(n) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk

products from an other order plant, the classification to which such receipts are allocated pursuant to § 1096.46 pursuant to such report, and thereafter any change in such allocation required to correct errors disclosed in verification of such report; and

(o) Furnish to each handler operating a pool plant who has shipped fluid milk products to an other order plant, the classification to which the skim milk and butterfat in such fluid milk products were allocated by the market administrator of the other order on the basis of the report of the receiving handler; and, as necessary, any changes in such classification arising in the verification of such report.

5. In § 1096.30, paragraphs (b) and (c) are revised to read as follows:

§ 1096.30 Reports of receipts and utilization.

* * * * *

(b) Each handler specified in § 1096.8 (b) who operates a partially regulated distributing plant shall report as required in paragraph (a) of this section, except that receipts in Grade A milk from dairy farmers shall be reported in lieu of those in producer milk; such report shall include a separate statement showing the respective amounts of skim milk and butterfat disposed of on routes in the marketing area as Class I milk; and

(c) Each handler operating an unregulated supply plant shall make reports to the market administrator at such time and in such manner as the market administrator may prescribe.

6. In § 1096.31, the introductory text and paragraph (a) are revised to read as follows:

§ 1096.31 Payroll reports.

On or before the 20th day of each month each handler (other than a producer-handler) who is the operator of a pool plant or who is the operator of a partially regulated distributing plant and does not elect to make payment pursuant to § 1096.62(b) at the regular time for reporting pursuant to § 1096.30(b), for each of his plants, and each cooperative association, with respect to milk for which it is the handler pursuant to § 1096.8 (c) or (d), shall submit to the market administrator his producer payroll for deliveries of milk for the preceding month which shall show:

(a) The name and, if not previously reported, address of each producer (dairy farmers in the case of a partially regulated distributing plant pursuant to § 1096.62(a));

7. Section 1096.32 is revised to read as follows:

§ 1096.32 Other reports.

(a) Each producer-handler shall make reports to the market administrator at such time and in such manner as the market administrator shall request.

(b) Each handler, who causes milk to be diverted for his account directly from a producer's farm to a nonpool plant, shall prior to such diversion report to the market administrator and to the cooperative association of which such producer is a member his intention to divert such milk, the proposed date or dates of such diversion, and the name of the plant to which such milk is to be diverted.

8. In § 1096.41, paragraph (b)(5) (ii) and (iv) are revised to read as follows:

§ 1096.41 Classes of utilization.

* * * * *

(b) * * *

(5) * * *

(ii) 1.5 percent of bulk receipts of milk from other pool plants, from other order plants (exclusive of the quantity for which Class II utilization was requested by the operator of such plant and the handler), from unregulated supply plants (exclusive of the quantity for which Class II utilization was requested by the handler), and from cooperative associations in their capacity as handlers pursuant to § 1096.8(d) except that where the handler is purchasing milk from a cooperative association in its capacity as a handler pursuant to § 1096.8(d) and files with the market administrator, prior to the first day of the month, notice that he is purchasing such milk on the basis of the butterfat tests of farm drawn samples and weights determined at the farm, the applicable percentage on such milk shall be 2.0 percent; less

* * * * *

(iv) Shrinkage on other source milk determined pursuant to § 1096.42(b)(2);

9. Section 1096.42 is revised to read as follows:

§ 1096.42 Shrinkage.

The market administrator shall allocate shrinkage over a handler's receipts at each pool plant as follows:

(a) Compute the total shrinkage of skim milk and butterfat, respectively, for such plant; and

(b) Prorate the resulting amounts between the receipts of skim milk and butterfat contained in:

(1) Items specified in § 1096.41 (b)(5)(i) and (ii); and

(2) Remaining receipts of other source milk.

10. Section 1096.44 is revised to read as follows:

§ 1096.44 Transfers.

Skim milk or butterfat in the form of a fluid milk product shall be classified:

(a) At the utilization indicated by the operators of both plants, otherwise as Class I milk, if transferred from a pool plant to another pool plant subject in either event to the following conditions:

(1) The skim milk or butterfat so assigned to either class shall be limited to the amount thereof remaining in such class in the transferee plant after computations pursuant to § 1096.46(a)(8) and the corresponding step of § 1096.46(b);

(2) If the transferor plant received during the month other source milk to be allocated pursuant to § 1096.46(a)(3) and the corresponding step of § 1096.46(b), the skim milk and butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor handler received during the month other source milk to be allocated pursuant to § 1096.46(a)(7) or (8) and the corresponding steps of § 1096.46(b), the skim milk and butterfat so transferred up to the total of such receipts shall not be classified as Class I milk to a greater extent than would be applicable to a like quantity of such other source milk received at the transferee plant;

(b) As Class I milk, if transferred from a pool plant to a producer-handler;

(c) As Class I milk, if diverted to a nonpool plant that is neither an other order plant nor a producer-handler plant, located more than 300 miles by the shortest hard-surfaced highway distance as determined by the market administrator, from the nearer of the City Halls of Minden or Monroe, Louisiana;

(d) Except as provided in paragraph (c) of this section, as Class I milk if transferred or diverted in bulk to a nonpool plant that is neither an other order plant nor a producer-handler plant, unless the requirements of subparagraphs (1) and (2) of this paragraph are met, in which case the skim milk and butterfat so transferred or diverted shall be classified in accordance with the assignment resulting from subparagraph (3) of this paragraph:

(1) The transferring or diverting handler claims classification pursuant to the assignment set forth in subparagraph (3) of this paragraph in his report submitted to the market administrator pursuant to § 1096.30 for the month within which such transaction occurred;

(2) The operator of such nonpool plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for the purpose of verification; and

(3) The skim milk and butterfat so transferred shall be classified on the basis of the following assignment of utilization at such nonpool plant in excess of receipts of packaged fluid milk products from all pool plants and other order plants:

(i) Any Class I utilization disposed of on routes in the marketing area shall be first assigned to the skim milk and butterfat in the fluid milk products so transferred or diverted from pool plants, next pro rata to receipts from other order plants and thereafter to receipts from dairy farmers who the market administrator determines constitute regular sources of supply of Grade A milk for such nonpool plant;

(ii) Any Class I utilization disposed of on routes in the marketing area of another order issued pursuant to the Act shall be first assigned to receipts from plants fully regulated by such order, next pro rata to receipts from pool plants and other order plants not regulated by such order, and thereafter to receipts from dairy farmers who the market administrator determines constitute regular sources of supply for such nonpool plant;

(iii) Class I utilization in excess of that assigned pursuant to subdivisions

(i) and (ii) of this subparagraph shall be assigned first to remaining receipts from dairy farmers who the market administrator determines constitute the regular source of supply for such nonpool plant and Class I utilization in excess of such receipts shall be assigned pro rata to unassigned receipts at such nonpool plant from all pool and other order plants; and

(iv) To the extent that Class I utilization is not so assigned to it, the skim milk and butterfat so transferred shall be classified as Class II milk; and

(e) As follows, if transferred to an other plant in excess of receipts from such plant in the same category as described in subparagraph (1), (2) or (3) of this paragraph:

(1) If transferred in packaged form, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated as a fluid milk product under the other order (including allocation under the conditions set forth in subparagraph (3) of this paragraph);

(3) If the operators of both the transferor and transferee plants so request in the reports of receipts and utilization filed with their respective market administrators, transfers in bulk form shall be classified as Class II to the extent of the Class II utilization (or comparable utilization under such other order) available for such assignment pursuant to the allocation provisions of the transferee order;

(4) If information concerning the classification to which allocated under the other order is not available to the market administrator for purposes of establishing classification pursuant to this paragraph, classification shall be as Class I, subject to adjustment when such information is available;

(5) For purposes of this paragraph (e), if the transferee order provides for more than two classes of utilization, milk allocated to a class consisting primarily of fluid milk products shall be classified as Class I, and milk allocated to other classes shall be classified as Class II; and

(6) If the form in which any fluid milk product is transferred to an other order plant is not defined as a fluid milk product under such other order, classification shall be in accordance with the provisions of § 1096.41.

11. Section 1096.46 is revised to read as follows:

§ 1096.46 Allocation of skim milk and butterfat classified.

After making the computations pursuant to § 1096.45, the market administrator shall determine the classification of producer milk received at each pool plant each month as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class II the pounds of skim milk classified as Class II pursuant to § 1096.41(b)(5) (i) through (iii);

(2) Subtract from the remaining pounds of skim milk in each class the pounds of skim milk in fluid milk products received in packaged form from other order plants as follows:

(i) From Class II milk, the lesser of the pounds remaining or two percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(3) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class II, the pounds of skim milk in each of the following:

(i) Other source milk in a form other than that of a fluid milk product;

(ii) Receipts of fluid milk products for which Grade A certification is not established, or which are from unidentified sources; and

(iii) Receipts of fluid milk products from a producer-handler, as defined under this or any other Federal order;

(4) Subtract, in the order specified below, from the pounds of skim milk remaining in Class II:

(i) The pounds of skim milk in receipts of fluid milk products from unregulated supply plants for which the handler requests Class II utilization, but not in excess of the pounds of skim milk remaining in Class II;

(ii)(*a*) The pounds of skim milk remaining in receipts of fluid milk products from unregulated supply plants which are in excess of the pounds of skim milk determined as follows:

(*1*) Multiply the pounds of skim milk remaining in Class I milk (excluding Class I transfers between pool plants of the handler) at all pool plants of the handler by 1.25;

(*2*) Subtract from the result the sum of the pounds of skim milk at all such plants in producer milk, in receipts from other pool handlers and in receipts in bulk from other order plants; and

(*3*) Multiply any resulting plus quantity by the percentage that receipts of skim milk in fluid milk products from unregulated supply plants remaining at this plant is of all such receipts remaining at all pool plants of such hander, after any deductions pursuant to subdivision (i) of this subparagraph.

(*b*) Should such computation result in a quantity to be subtracted from Class II which is in excess of the pounds of skim milk remaining in Class II, the pounds of skim milk in Class II shall be increased to the quantity to be subtracted and the pounds of skim milk in Class I shall be decreased a like amount. In such case the utilization of skim milk at other pool plant(s) of such handler shall be adjusted in the reverse direction by an identical amount in sequence beginning with the nearest other pool plant of such handler at which such adjustment can be made.

(iii) The pounds of skim milk in receipts of fluid milk products in bulk from an other order plant in excess of similar transfers to such plant, but not in excess of the pounds of skim milk remaining in Class II milk, if Class II utilization was requested by the operator of such plant and the handler;

(5) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class II, the pounds of skim milk in inventory of fluid milk products on hand at the beginning of the month;

(6) Add to the remaining pounds of skim milk in Class II milk the pounds subtracted pursuant to subparagraph (1) of this paragraph;

(7)(i) Subtract from the pounds of skim milk remaining in each class, pro rata to the total pounds of skim milk remaining in each class in all pool plants of the receiving handler, the pounds of skim milk in receipts of fluid milk products from unregulated supply plants that were not subtracted pursuant to subparagraph (4) (i) or (ii) of this paragraph;

(ii) Should such proration result in the amount to be subtracted from any class exceeding the pounds of skim milk remaining in such class in the pool plant at which such skim milk was received, the pounds of skim milk in such class shall be increased to the amount to be subtracted and the pounds of skim milk in the other class shall be decreased a like amount. In such case the utilization of milk at other pool plant(s) of such handler shall be adjusted in the reverse direction by an identical amount in sequence beginning with the nearest other pool plant of such handler at which such adjustment can be made;

(8) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of fluid milk products in bulk from an other order plant, in excess in each case of similar transfers to the same plant, that were not subtracted pursuant to subparagraph (4)(iii) of this paragraph pursuant to the following procedure:

(i) Subject to the provisions of subdivisions (ii) and (iii) of this subparagraph, such subtraction shall be pro rata to whichever of the following represents the higher proportion of Class II milk:

(*a*) The estimated ultilization of skim milk in each class, by all handlers, as announced for the month pursuant to § 1096.27(m); or

(*b*) The pounds of skim milk in each class remaining at all pool plants of the handler;

(ii) Should proration pursuant to subdivision (i) of this subparagraph result in the total pounds of skim milk to be subtracted from Class II at all pool plants of the handler exceeding the pounds of skim milk remaining in Class II at such plants, the pounds of such excess shall be subtracted from the pounds of skim milk remaining in Class I after such proration at the pool plants at which received;

(iii) Except as provided in subdivision (ii) of this subparagraph, should proration pursuant to either subdivision (i) or (ii) of this subparagraph result in the amount to be subtracted from either class exceeding the pounds of skim milk remaining in such class in the pool plant at which such skim milk was received, the pounds of skim milk in such class shall be increased to the amount to be subtracted and the pounds of skim milk in the other class shall be decreased a like amount. In such case the utilization of milk at other pool plant(s) of such handler shall be adjusted in the

reverse direction by an identical amount in sequence beginning with the nearest other pool plant of such handler at which such adjustment can be made.

(9) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk received in fluid milk products from other pool plants and from cooperative associations which are handlers pursuant to § 1096.8(d) according to the classification assigned pursuant to § 1096.44(a); and

(10) If the pounds of skim milk remaining in both classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class II. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) Combine the amounts of skim milk and butterfat determined pursuant to paragraphs (a) and (b) of this section into one total for each class and determine the weighted average butterfat content of producer milk in each class.

12. Section 1096.53 is revised to read as follows:

§ 1096.53 Location adjustments to handlers.

(a) For milk received from producers at a pool plant located more than 50 but not more than 60 miles by shortest hard-surfaced highway distance as determined by the market administrator, from the nearer of the City Halls in Minden or Monroe, Louisiana, and classified as Class I milk or assigned Class I location adjustment credit pursuant to paragraph (b) of this section and for other source milk for which a location adjustment is applicable, the price computed pursuant to § 1096.51(a) shall be reduced by 12 cents, plus one cent for each 10 miles or fraction thereof that such distance exceeds 60 miles; and

(b) For purposes of calculating such adjustment, transfers between pool plants shall be assigned Class I disposition at the transferee plant, in excess of the sum of receipts at such plant from producers and cooperative associations pursuant to § 1096.8(d), and the pounds assigned as Class I to receipts from other order plants and unregulated supply plants, such assignment to be made first to transferor plants at which no location adjustment credit is applicable and then in sequence beginning with the plant at which the least location adjustment would apply.

13. Section 1096.62 is revised to read as follows:

§ 1096.62 Obligations of handler operating a partially regulated distributing plant.

Each handler who operates a partially regulated distributing plant shall pay to the market administrator for the producer-settlement fund on or before the 25th day after the end of the month either of the amounts (at the handler's election) calculated pursuant to paragraph (a) or (b) of this section. If the handler fails to report pursuant to §§ 1096.30(b) and 1096.31 the information necessary to compute the amount specified in paragraph (a) of this section, he shall pay the amount computed pursuant to paragraph (b) of this section:

(a) An amount computed as follows:

(1) (i) The obligation that would have been computed pursuant to § 1096.70 at such plant shall be determined as though such plant were a pool plant. For purposes of such computation, receipts at such nonpool plant from a pool plant or an other order plant shall be assigned to the utilization at which classified at the pool plant or other order plant and transfers from such nonpool plant to a pool plant or an other order plant shall be classified as Class II milk if allocated to such class at the pool plant or other order plant and be valued at the weighted average price of the respective order if so allocated to Class I milk. There shall be included in the obligation so computed a charge in the amount specified in § 1096.70(e) and a credit in the amount specified in § 1096.82(b)(2) with respect to receipts from an unregulated supply plant, unless an obligation with respect to such plant is computed as specified below in this subparagraph.

(ii) If the operator of the partially regulated distributing plant so requests, and provides with his reports pursuant to §§ 1096.30(b) and 1096.31 similar reports with respect to the operations of any other nonpool plant which serves as a supply plant for such partially regulated distributing plant by shipments to such plant during the month equivalent to the requirements of § 1096.13(b), with agreement of the operator of such plant that the market administrator may examine the books and records of such plant for purposes of verification of such reports, there will be added the amount of the obligation computed at such nonpool supply plant in the same manner and subject to the same conditions as for the partially regulated distributing plant.

(2) From this obligation there will be deducted the sum of (i) the gross payments made by such handler for Grade A milk received during the month from dairy farmers at such plant and like payments made by the operator of a supply plant(s) included in the computations pursuant to subparagraph (1) of this paragraph, and (ii) any payments to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant.

(b) An amount computed as follows:

(1) Determine the respective amounts of skim milk and butterfat disposed of as Class I milk on routes in the marketing area;

(2) Deduct the respective amounts of skim milk and butterfat received as Class I milk at the partially regulated distributing plant from pool plants and other order plants, except that deducted under a similar provision of another order issued pursuant to the Act;

(3) Combine the amounts of skim milk and butterfat remaining into one total and determine the weighted average butterfat content; and

(4) From the value of such milk at the Class I price applicable at the location of the nonpool plant, subtract its value at the weighted average price applicable at such location (not to be less than the Class II price).

§ 1096.63 [Revocation]

14. Section 1096.63 is revoked.

15. Section 1096.70 is revised to read as follows:

§ 1096.70 Computation of the net pool obligation of each pool handler.

For each month the market administrator shall compute the obligation of each pool handler by making the computations provided in paragraphs (a) through (e) of this section for each of his pool plants and adding together the resulting totals:

(a) Multiply the quantity of producer milk in each class, as computed pursuant to § 1096.46(c), by the applicable class prices (adjusted pursuant to §§ 1096.52 and 1096.53);

(b) Add the amount obtained from multiplying the pounds of overage deducted from each class pursuant to § 1096.46(a)(10) and the corresponding step of § 1096.46(b) by the applicable class prices;

(c) Add the amount obtained from multiplying the difference between the Class II price for the preceding month and the Class I price for the current month by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1096.46(a)(5) and the corresponding step of § 1096.46(b);

(d) Add an amount equal to the difference between the value at the Class I price applicable at the pool plant and the value at the Class II price, with respect to skim milk and butterfat in other source milk subtracted from Class I pursuant to § 1096.46(a)(3) and the corresponding step of § 1096.46(b); and

(e) Add an amount equal to the value at the Class I price, adjusted for location of the nearest nonpool plant(s) from which an equivalent volume was received, with respect to skim milk and butterfat subtracted from Class I pursuant to § 1096.46(a)(7) and the corresponding step of § 1096.46(b).

16. In § 1096.71, the introductory text and paragraphs (b) and (c) are revised to read as follows:

§ 1096.71 Computation of aggregate value used to determine uniform prices.

For each month, the market administrator shall compute an aggregate value from which to determine the uniform price(s) per hundredweight for milk of 3.5 percent butterfat content as follows:

* * * * *

(b) Add or subtract for each one-tenth percent that the average butterfat content of the milk specified in § 1096.72(a) is less or more, respectively, than 3.5 percent, an amount computed by multiplying such difference by the butterfat differential determined pursuant to § 1096.74 and multiplying the result by the total hundredweight of such milk;

(c) Add an amount equal to the sum of the deductions to be made for location differentials pursuant to § 1096.75; and

17. Section 1096.72 is revised to read as follows:

§ 1096.72 Computation of weighted average price and uniform price.

For each month the market administrator shall compute the weighted average price per hundredweight for all milk of 3.5 percent butterfat content as follows:

(a) Divide the aggregate value computed pursuant to § 1096.71 by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1096.70(e);

(b) Subtract not less than 4 cents nor more than 5 cents. The result shall be the "weighted average price", and, except for the months of February through July, shall be the "uniform price" for producer milk.

18. In § 1096.73, paragraph (b)(1) is revised to read as follows:

§ 1096.73 Computation of uniform prices for base milk and for excess milk.

* * * * *

(b)(1) From the aggregate value of all milk obtained in § 1096.71 subtract the following:

(i) An amount computed by multiplying the hundredweight of milk specified in § 1096.72(a)(2) by the weighted average price; and

(ii) An amount computed by multiplying the hundredweight of excess milk determined pursuant to paragraph (a) of this section by the uniform price for excess milk;

19. Section 1096.75 is revised to read as follows:

§ 1096.75 Location differentials to producers and on nonpool milk.

(a) The uniform price for producer milk received at or diverted from a pool plant shall be reduced according to the location of the pool plant, at the rates set forth in § 1096.53; and

(b) For purposes of computations pursuant to §§ 1096.82 and 1096.83 the weighted average price shall be adjusted at the rates set forth in § 1096.53 applicable at the location of the nonpool plant from which the milk was received.

20. Section 1096.82 is revised to read as follows:

§ 1096.82 Payments to the producer-settlement fund.

On or before the 12th day after the end of the month each handler shall pay to the market administrator the amount, if any, by which the total amounts specified in paragraph (a) of this section exceed the amounts specified in paragraph (b) of this section:

(a) The total of the net pool obligation computed pursuant to § 1096.70 for such handler;

(b) The sum of:

(1) The value of such handler's producer milk at the applicable uniform prices specified in § 1096.80; and

(2) The value at the weighted average price(s) applicable at the location of the plant(s), from which received (not to be less than the value at the Class II price) with respect to other source milk for which a value is computed pursuant to § 1096.70(e).

21. Section 1096.83 is revised to read as follows:

§ 1096.83 Payments out of the producer-settlement fund.

On or before the 13th day after the end of each month the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1096.82(b) exceeds the amount computed pursuant to § 1096.82(a). If, at such time, the balance in the producer-settlement fund is insufficient to make all payments pursuant to this section, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the appropriate funds are available.

22. Section 1096.86 is revised to read as follows:

§ 1096.86 Expense of administration.

As his pro rata share of the expense of administration of this part each handler, except a producer-handler, shall pay to the market administrator on or before the 15th day after the end of the month, 5 cents per hundredweight, or such amount not exceeding 5 cents per hundredweight as the Secretary may prescribe as follows:

(a) Each pool handler with respect to (1) all receipts of producer milk including such handler's own production, and (2) other source milk allocated to Class I pursuant to § 1096.46(a) (3) and (7) and the corresponding steps of § 1096.46 (b);

(b) Each cooperative association in its capacity as a handler on producer milk diverted to a nonpool plant for the account of such association or received by such association pursuant to § 1096.8(d); and

(c) Each handler operating a partially regulated distributing plant with respect to Class I milk disposed of from such plant on routes in the marketing area that exceeds Class I milk received during the month at the partially regulated distributing plant from pool plants and other order plants.

PART 1097—MILK IN MEMPHIS, TENN., MARKETING AREA

1. Section 1097.9 is revised to read as follows:

§ 1097.9 Nonfluid milk plant.

"Nonfluid milk plant" means any milk manufacturing, processing or bottling plant other than a fluid milk plant. The following categories of nonfluid milk plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a nonfluid milk plant that is neither an other order plant nor a producer-handler plant, from which Class I milk in consumer-type packages or dispenser units is distributed on routes in the marketing area during the month.

(d) "Unregulated supply plant" means a nonfluid milk plant from which Grade A fluid milk products are moved during the month to a fluid milk plant and which is not an other order plant nor a producer-handler plant.

2. The introductory text of § 1097.11 is revised to read as follows:

§ 1097.11 Producer.

"Producer" means any person except a producer-handler as defined in any order (including this part) issued pursuant to the Act, who produces milk in compliance with Grade A inspection requirements of a duly constituted health authority which milk is:

* * * * *

3. In § 1097.22, paragraphs (m) and (n) are added as follows:

§ 1097.22 Duties.

* * * * *

(m) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products from an other order plant, the classification to which such receipts are allocated pursuant to § 1097.46 pursuant to such report, and thereafter any change in such allocation required to correct errors disclosed in verification of such report; and

(n) Furnish to each handler operating a fluid milk plant who has shipped fluid milk products to an other order plant, the classification to which the skim milk and butterfat in such fluid milk products were allocated by the market administrator of the other order on the basis of the report of the receiving handler; and, as necessary, any changes in such classification arising in the verification of such report.

4. In § 1097.30, paragraph (f) is added as follows:

§ 1097.30 Reports of receipts and utilization.

* * * * *

(f) Each handler who operates a partially regulated distributing plant shall report as required in this section except that receipts in Grade A milk from dairy farmers shall be reported in lieu of those in producer milk.

5. Section 1097.31 is revised by adding paragraph (c) as follows:

§ 1097.31 Other reports.

* * * * *

(c) Each handler who operates a partially regulated distributing plant shall report on or before the 7th day after the end of the month, the respective amounts of skim milk and butterfat disposed of in the marketing area as Class I milk on routes (other than to fluid milk plants).

6. In § 1097.41(b)(5), subdivision (ii) is revised to read as follows:

§ 1097.41 Classes of utilization.

* * * * *

(b) * * *

(5) * * *

(ii) One and one-half percent of milk received in bulk tanks lots from fluid milk plants of other handlers, from cooperative associations which are handlers pursuant to § 1097.10(c), from an other order plant (exclusive of the quantity for which Class II utilization was requested by the operator of such plant and the handler) and from unregulated supply plants (exclusive of the quantity for which Class II utilization was requested by the handler); less

7. In § 1097.42(b), subparagraph (1) is revised to read as follows:

§ 1097.42 Shrinkage.

* * * * *

(b) * * *

(1) The pounds of skim milk and butterfat in other source milk received in the form of fluid milk products exclusive of that specified in § 1097.41(b)(5); and

* * * * *

8. Section 1097.44 is revised to read as follows:

§ 1097.44 Transfers.

Skim milk or butterfat in the form of a fluid milk product shall be classified:

(a) At the utilization indicated by the operators of both plants, otherwise as Class I milk, if transferred from a fluid milk plant to the fluid milk plant of another handler, except as provided in paragraph (e) of this section, subject in either event to the following conditions:

(1) The skim milk or butterfat so assigned to either class shall be limited to the amount thereof remaining in such class in the transferee plant after computations pursuant to § 1097.46(a)(7) and the corresponding step of § 1097.46(b);

(2) If the transferor plant received during the month other source milk to be allocated pursuant to § 1097.46(a)(3) and the corresponding step of § 1097.46(b), the skim milk and butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor handler received during the month other source milk to be allocated pursuant to § 1097.46(a)(7) and the corresponding step of § 1097.46(b), the skim milk and butterfat so transferred up to the total of such receipts shall not be classified as Class I milk to a greater extent than would be applicable to a like quantity of such other source milk received at the transferee plant;

(b) As Class I milk, if transferred from a fluid milk plant to a producer-handler;

(c) As Class I milk, if transferred or diverted to a nonfluid milk plant that is neither an other order plant nor a producer-handler plant, located more than 225 miles by the shortest highway distance (open to commercial truck traffic) as determined by the market administrator, from the City Hall in Memphis, Tennessee;

(d) As Class I milk, if transferred or diverted in bulk to a nonfluid milk plant that is neither an other order plant nor a producer-handler plant, located not more than 225 miles, by the shortest highway distance as determined by the market administrator, from the City Hall in Memphis, Tennessee, unless the requirements of subparagraphs (1) and (2) of this paragraph are met, in which case the skim milk and butterfat so transferred or diverted shall be classified in accordance with the assignment resulting from subparagraph (3) of this paragraph:

(1) The transferring or diverting handler claims classification pursuant to the assignment set forth in subparagraph (3) of this paragraph in his report submitted to the market administrator pursuant to § 1097.30 for the month within which such transaction occurred;

(2) The operator of such nonfluid milk plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for the purpose of verification; and

(3) The skim milk and butterfat so transferred shall be classified on the basis of the following assignment of utilization at such nonfluid milk plant in excess of receipts of packaged fluid milk products from all fluid milk plants and other order plants:

(i) Any Class I utilization disposed of on routes in the marketing area shall be first assigned to the skim milk and butterfat in the fluid milk products so transferred or diverted from fluid milk plants, next pro rata to receipts from other order plants and thereafter to receipts from dairy farmers who the market administrator determines constitute regular sources of supply of Grade A milk for such nonfluid milk plant;

(ii) Any Class I utilization disposed of on routes in the marketing area of another order issued pursuant to the Act shall be first assigned to receipts from plants fully regulated by such order, next pro rata to receipts from other order plants not regulated by such order, and thereafter to receipts from dairy farmers who the market administrator deter-

mines constitute the regular source of supply for such nonfluid milk plant;

(iii) Class I utilization in excess of that assigned pursuant to subdivisions (i) and (ii) of this subparagraph shall be assigned first to remaining receipts from dairy farmers who the market administrator determines constitute the regular source of supply for such nonfluid milk plant and Class I utilization in excess of such receipts shall be assigned pro rata to unassigned receipts at such nonfluid milk plant from all fluid milk plants and other order plants: and

(iv) To the extent that Class I utilization is not so assigned to it, the skim milk and butterfat so transferred shall be classified as Class II milk;

(e) As producer milk in the transferee plant, if transferred as bulk milk to the fluid milk plant of another handler by a cooperative in its capacity as a handler pursuant to § 1097.10(c); and

(f) As follows, if transferred to an other order plant in excess of receipts from such plant in the same category as described in subparagraph (1), (2) or (3) of this paragraph:

(1) If transferred in packaged form, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated as a fluid milk product under the other order (including allocation under the conditions set forth in subparagraph (3) of this paragraph);

(3) If the operators of both the transferor and transferee plants so request in the reports of receipts and utilization filed with their respective market administrators, transfers in bulk form shall be classified as Class II to the extent of the Class II utilization (or comparable utilization under such other order) available for such assignment pursuant to the allocation provisions of the transferee order;

(4) If information concerning the classification to which allocated under the other order is not available to the market administrator for purposes of establishing classification pursuant to this paragraph, classification shall be as Class I, subject to adjustment when such information is available;

(5) For purposes of this paragraph (f), if the transferee order provides for more than two classes of utilization, milk allocated to a class consisting primarily of fluid milk products shall be classified as Class I, and milk allocated to other classes shall be classified as Class II; and

(6) If the form in which any fluid milk product is transferred to an other order plant is not defined as a fluid milk product under such other order, classification shall be in accordance with the provisions of § 1097.41.

9. Section 1097.46 is revised to read as follows:

§ 1097.46 Allocation of skim milk and butterfat classified.

After making the computations pursuant to § 1097.45, the market administrator shall determine the classification of producer milk for each handler as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class II the pounds of skim milk classified as Class II pursuant to § 1097.41(b)(5);

(2) Subtract from the remaining pounds of skim milk in each class the pounds of skim milk in fluid milk products received in packaged form from other order plants as follows:

(i) From Class II milk, the lesser of the pounds remaining or two percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(3) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class II, the pounds of skim milk in each of the following:

(i) Other source milk in a form other than that of a fluid milk product;

(ii) Receipts of fluid milk products for which Grade A certification is not established, or which are from unidentified sources; and

(iii) Receipts of fluid milk products from a producer-handler, as defined under this or any other Federal order;

(4) Subtract in the order specified below, from the pounds of skim milk remaining in Class II, but not in excess of such quantity, the pounds of skim milk in each of the following:

(i) Receipts of fluid milk products from an unregulated supply plant:

(a) For which the handler requests Class II utilization; or

(b) Which are in excess of the pounds of skim milk determined by multiplying the pounds of skim milk remaining in Class I milk by 1.25 and subtracting the sum of the pounds of skim milk in producer milk, receipts from fluid milk plants of other handlers, from cooperative associations which are handlers pursuant to § 1097.10(c), and receipts in bulk from other order plants;

(ii) Receipts of fluid milk products in bulk from an other order plant in excess of similar transfers to such plant, if Class II utilization was requested by the operator of such plant and the handler;

(5) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class II, the pounds of skim milk in inventory of fluid milk products on hand at the beginning of the month;

(6) Add to the remaining pounds of skim milk in Class II milk the pounds subtracted pursuant to subparagraph (1) of this paragraph;

(7) Subtract from the pounds of skim milk remaining in each class, pro rata to such quantities, the pounds of skim milk in each of the following:

(i) Receipts of fluid milk products from unregulated supply plants that were not subtracted pursuant to subparagraph (4)(i) of this paragraph;

(ii) Receipts of fluid milk products in bulk from other order plants that were not subtracted pursuant to subparagraph (4)(ii) of this paragraph;

(8) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk received in fluid milk products from other fluid milk plants according to the classification assigned pursuant to § 1097.44(a); and

(9) If the pounds of skim milk remaining in both classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class II. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) Combine the amounts of skim milk and butterfat determined pursuant to paragraphs (a) and (b) of this section into one total for each class and determine the weighted average butterfat content of producer milk in each class.

§ 1097.53 [Amendment]

10. The sentence following the table in § 1097.53 is revised to read: "For purposes of calculating such location differential, fluid milk products transferred in bulk between fluid milk plants shall be assigned to the Class I disposition at the transferee plant in excess of the sum of receipts at such plant from producers and from cooperative associations pursuant to § 1097.10(c) times 1.05, and the pounds assigned as Class I to receipts from other order plants and unregulated supply plants, such assignment to be made first to transferor plants at which no location differential or a plus location differential is applicable and then in sequence beginning with the plant at which the smallest minus location differential would apply."

11. In § 1097.70, paragraph (e) is revised to read as follows:

§ 1097.70 Net obligation of handlers.

* * * * *

(e) Add the amount obtained from multiplying the difference between the Class II price for the preceding month and the Class I price for the current month by the lesser of:

(1) The hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1097.46(a)(5) and the corresponding step of (b); or

(2) The hundredweight of skim milk and butterfat remaining in Class II (exclusive of shrinkage) after computations pursuant to § 1097.46(a)(7)(i) and the corresponding step of (b) for the preceding month.

12. Section 1097.97 is revised to read as follows:

§ 1097.97 Expense of administration.

As his pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 15th day after the end of the month four cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect to (a) receipts of milk at fluid milk plants from producers (including that classified pursuant to § 1097.44(e) and such handler's own production), (b) other source

milk allocated to Class I pursuant to § 1097.46(a) (3) and (7) (i) and the corresponding steps of § 1097.46(b), (c) receipts of milk for which a cooperative association is the handler pursuant to § 1097.10(c) in excess of that specified in paragraph (a) of this section, and (d) receipts of milk for which a cooperative association is a handler pursuant to § 1097.10(b).

PART 1099—MILK IN PADUCAH, KENTUCKY, MARKETING AREA

1. Section 1099.9 is revised to read as follows:

§ 1099.9 Nonpool plant.

"Nonpool plant" means any milk receiving, manufacturing or processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant, from which fluid milk products labeled Grade A in consumer-type packages or dispenser units are distributed on routes in the marketing area during the month.

(d) "Unregulated supply plant" means a nonpool plant (other than a producer-handler plant or an other order plant) from which milk, skim milk or cream acceptable to an appropriate health authority for distribution in the marketing area under a Grade A label is shipped to a pool plant.

2. Section 1099.10 is revised to read as follows:

§ 1099.10 Handler.

"Handler" means:

(a) Any person in his capacity as the operator of a pool plant;

(b) Any person who operates a partially regulated distributing plant;

(c) A producer-handler or any person who operates an other order plant described in § 1099.61.

(d) A cooperative association qualified pursuant to § 1099.87(b) with respect to milk of producers diverted for the account of such association from a pool plant to a nonpool plant; or

(e) (1) A cooperative association which chooses to report as a handler with respect to milk which is delivered to the pool plant(s) of another handler in a tank truck owned or operated by, or under contract to, such cooperative association for the account of such cooperative association. Milk handled under this paragraph (e) shall be allocated pro rata to each class in the same proportion as all producer milk in the receiving plant under the allocations pursuant to § 1099.45 (a) and (b).

(2) Milk handled by a cooperative association pursuant to paragraph (d) of this section shall be deemed to have been received at a pool plant at a location identical with that from which diverted and that under paragraph (e) of this section at the pool plant to which delivered.

3. Section 1099.11 is revised to read as follows:

§ 1099.11 Producer.

"Producer" means any person, other than a producer-handler as defined in any order (including this part) issued pursuant to the Act, who produces milk under a Grade A dairy farm permit or rating issued by a duly constituted health authority, which milk is delivered from the farm to a pool plant or diverted from a pool plant to a nonpool plant for the account of a handler (unless such nonpool plant is subject to the classification and pricing provisions of another order issued pursuant to the Act): *Provided*, That for any of the delivery periods of September through January no milk so diverted shall be deemed to have been so received at a pool plant from a producer if production of more than 10 days is diverted to a nonpool plant during such delivery period.

§ 1099.15 [Amendment]

3a. In § 1099.15(a) the reference "§ 1099.10(d)" is changed to "§ 1099.10 (e)".

3b. A new § 1099.16 is added to read as follows:

§ 1099.16 Fluid milk product.

"Fluid milk product" means milk, buttermilk, milk drinks (whether plain or flavored) and cream.

4. In § 1099.22, additional paragraphs (l), (m), and (n) are added to read as follows:

§ 1099.22 Duties.

* * * * *

(l) Whenever required for purpose of allocating receipts from other order plants pursuant to § 1099.45(a)(8) and the corresponding step of § 1099.45(b), the market administrator shall estimate

and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose;

(m) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products from an other order plant, the classification to which such receipts are allocated pursuant to § 1099.45 pursuant to such report, and thereafter any change in such allocation required to correct errors disclosed in verification of such report; and

(n) Furnish to each handler operating a pool plant who has shipped fluid milk products to an other order plant, the classification to which the skim milk and butterfat in such fluid milk products were allocated by the market administrator of the other order on the basis of the report of the receiving handler; and, as necessary, any changes in such classification arising in the verification of such report.

5. In § 1099.30 the reference in paragraph (a) reading "§ 1099.10(d)" is changed to read "§ 1099.10(e)"; and the introductory paragraph is revised to read as follows:

§ 1099.30 Reports of receipts and utilization.

On or before the 6th day after the end of each month, each handler shall report for such month to the market administrator in the detail and on forms prescribed by the market administrator; each handler specified in § 1099.10(b), who operates a partially regulated distributing plant shall report the same information except that receipts in Grade A milk shall be reported in lieu of those in producer milk; such report shall include a separate statement showing the respective amounts of skim milk and butterfat disposed of on routes in the marketing area as Class I milk:

6. Section 1099.31 is revised to read as follows:

§ 1099.31 Reports of payments to producers.

On or before the 20th day after the end of each month, each handler, except a producer-handler and a handler making payments pursuant to § 1099.62(b), shall report to the market administrator, on forms approved by the market administrator, his producer payroll for such month which shall show for each producer (a) the total pounds of milk received from such producer with the average butterfat content thereof, (b) the net amount of the payment made to such producer together with the price, deductions, and charges involved, and (c) the amount and nature of any payments made pursuant to § 1099.84.

7. Section 1099.32 is revised to read as follows:

§ 1099.32 Other reports.

Each producer-handler shall make reports to the market administrator at such time and in such manner as the market administrator shall request and shall permit the market administrator to verify such reports.

8. Section 1099.41 is revised to read as follows:

§ 1099.41 Classes of utilization.

The classes of utilization shall be as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of fluid milk products, except those classified pursuant to paragraph (b) (2) and (3) of this section. Fluid milk products which have been fortified by the addition of milk solids shall be Class I only to the extent of the weight of an equal volume of an unmodified fluid milk product of the same nature and butterfat content; and

(2) All milk, skim milk and cream not specifically accounted for as Class II milk;

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Used to produce a product other than a fluid milk product;

(2) Contained in inventory of fluid milk products on hand at the end of the month;

(3) Skim milk contained in that portion of fortified fluid milk products not classified as Class I milk pursuant to paragraph (a)(1) of this section; and

(4) In actual shrinkage up to but not in excess of, 2 percent of the total receipts of skim milk or butterfat in (i) producer milk (except milk diverted pursuant to § 1099.11), (ii) receipts of fluid milk products in bulk from an other order plant, exclusive of the quantity for which Class II utilization was requested by the operator of such plant and the handler, and (iii) receipts of fluid milk products in bulk from unregulated supply plants, exclusive of the quantity for which Class II utilization was requested by the handler; and

(5) In shrinkage of skim milk and butterfat, in other source milk except that included in subparagraph (4) of this paragraph: *Provided,* That such shrinkage shall be assigned pro rata to the amounts used in the computations pursuant to subparagraph (4) of this paragraph and this subparagraph.

9. Section 1099.43 is revised to read as follows:

§ 1099.43 Transfers.

Skim milk or butterfat transferred or diverted in the form of a fluid milk product shall be classified:

(a) At the utilization indicated by the operators of both plants, otherwise as Class I milk, if transferred to the pool plant of another handler, subject in either event to the following conditions:

(1) The skim milk or butterfat so assigned to either class shall be limited to the amount thereof remaining in such class in the transferee plant after computations pursuant to § 1099.45 (a)(8) and (b);

(2) If the transferor plant received during the month other source milk to be allocated pursuant to § 1099.45(a)(3) and the corresponding step of § 1099.45 (b), the skim milk and butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor handler received during the month other source milk to be allocated pursuant to § 1099.45(a) (7) or (8) and the corresponding steps of § 1099.45(b), the skim milk and butterfat so transferred up to the total of such receipts shall not be classified as Class I milk to a greater extent than would be applicable to a like quantity of such other source milk received at the transferee plant.

(b) As Class I milk, if transferred to a producer-handler;

(c) As Class I milk, if transferred or diverted in bulk to a nonpool plant that is neither an other order plant nor a producer-handler plant, unless the requirements of subparagraphs (1) and (2) of this paragraph are met in which case the skim milk and butterfat so transferred or diverted shall be classified in accordance with the assignment resulting from subparagraph (3) of this paragraph:

(1) The transferring or diverting handler claims classification pursuant to the assignment set forth in subparagraph (3) of this paragraph in his report submitted to the market administrator pursuant to § 1099.30 for the month within which such transaction occurred;

(2) The operator of such nonpool plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for the purpose of verification; and

(3) The skim milk and butterfat so transferred shall be classified on the basis of the following assignment of utilization at such nonpool plant in excess of receipts of packaged fluid milk products from all pool plants and other order plants:

(i) Any Class I utilization disposed of on routes in the marketing area shall be first assigned to the skim milk and butterfat in the fluid milk products so transferred or diverted from pool plants, next pro rata to receipts from other order plants and thereafter to receipts from dairy farmers who the market administrator determines constitute regular sources of supply of Grade A milk for such nonpool plant;

(ii) Any Class I utilization disposed of on routes in the marketing area of another order issued pursuant to the Act shall be first assigned to receipts from plants fully regulated by such order, next pro rata to receipts from pool plants and other order plants not regulated by such order, and thereafter to receipts from dairy farmers who the market administrator determines constitute regular sources of supply for such nonpool plant;

(iii) Class I utilization in excess of that assigned pursuant to subdivisions (i) and (ii) of this subparagraph shall be assigned first to remaining receipts from dairy farmers who the market administrator determines constitute the regular source of supply for such nonpool plant and Class I utilization in excess of such receipts shall be assigned pro rata to unassigned receipts at such nonpool

plant from all pool and other order plants; and

(iv) To the extent that Class I utilization is not so assigned to it, the skim milk and butterfat so transferred shall be classified as Class II milk;

(d) As follows, if transferred to an other order plant in excess of receipts from such plant in the same category as described in subparagraph (1), (2) or (3) of this paragraph:

(1) If transferred in packaged form, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated as a fluid milk product under the other order (including allocation under the conditions set forth in subparagraph (3) of this paragraph);

(3) If the operators of both the transferor and transferee plants so request in the reports of receipts and utilization filed with their respective market administrators, transfers in bulk form shall be classified as Class II to the extent of the Class II utilization (or comparable utilization under such other order) available for such assignment pursuant to the allocation provisions of the transferee order;

(4) If information concerning the classification to which allocated under the other order is not available to the market administrator for purposes of establishing classification pursuant to this paragraph (d), classification shall be as Class I, subject to adjustment when such information is available;

(5) For purposes of this paragraph (d), if the transferee order provides for more than two classes of utilization, milk allocated to a class consisting primarily of fluid milk products shall be classified as Class I, and milk allocated to other classes shall be classified as Class II; and

(6) If the form in which any fluid milk product is transferred to an other order plant is not defined as a fluid milk product under such other order, classification shall be in accordance with the provisions of § 1099.41.

10. Section 1099.45 is revised to read as follows:

§ 1099.45 Allocation of skim milk and butterfat classified.

After making the computations pursuant to § 1099.44, the market administrator shall determine the classification of producer milk for each handler as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class II the pounds of skim milk classified as Class II pursuant to § 1099.41(b)(4);

(2) Subtract from the remaining pounds of skim milk in each class the pounds of skim milk in fluid milk products received in packaged form from other order plants as follows:

(i) From Class II milk, the lesser of the pounds remaining or two percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(3) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class II, the pounds of skim milk in each of the following:

(i) Other source milk in a form other than that of a fluid milk product;

(ii) Receipts of fluid milk products for which Grade A certification is not established, or which are from unidentified sources; and

(iii) Receipts of fluid milk products from a producer-handler, as defined under this or any other Federal order;

(4) Subtract, in the order specified below, from the pounds of skim milk remaining in Class II but not in excess of such quantity:

(i) Receipts of fluid milk products from unregulated supply plants and dairy farmers who are not producers:

(*a*) For which the handler requests Class II utilization; or

(*b*) Which are in excess of the pounds of skim milk determined by multiplying the pounds of skim milk remaining in Class I milk by 1.25 and subtracting the sum of the pounds of skim milk in producer milk, receipts from other pool handlers, and receipts in bulk from other order plants;

(ii) Receipts of fluid milk products in bulk from an other order plant in excess of similar transfers to such plant, if Class II utilization was requested by the operator of such plant and the handler;

(5) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class II, the pounds of skim milk in inventory of fluid milk products on hand at the beginning of the month;

(6) Add to the remaining pounds of skim milk in Class II milk the pounds subtracted pursuant to subparagraph (1) of this paragraph;

(7) Subtract from the pounds of skim milk remaining in each class, pro rata to such quantities, the pounds of skim milk in receipts of fluid milk products from unregulated supply plants and dairy farmers who are not producers which were not subtracted pursuant to subparagraph (4)(i) of this paragraph;

(8) Subtract from the pounds of skim milk remaining in each class, in the following order, the pounds of skim milk in receipts of fluid milk products in bulk from an other order plant(s), in excess in each case of similar transfers to the same plant, which were not subtracted pursuant to subparagraph (4)(ii) of this paragraph:

(i) In series beginning with Class II, the pounds determined by multiplying the pounds of such receipts by the larger of the percentage of estimated Class II utilization of skim milk announced for the month by the market administrator pursuant to § 1099.22(1) or the percentage that Class II utilization remaining is of the total utilization of skim milk of the handler; and

(ii) From Class I, the remaining pounds of such receipts;

(9) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk received in fluid milk products from pool plants of other handlers according to the classification assigned pursuant to § 1099.43(a); and

(10) If the pounds of skim milk remaining in both classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class II. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section.

11. Section 1099.53 is revised to read as follows:

§ 1099.53 Location adjustments to handlers.

(a) For milk received from producers at a pool plant located more than 40 miles by shortest highway distance as measured by the market administrator, from the nearest County Courthouse in any of the counties included in the marketing area and disposed of as Class I milk or assigned Class I location adjustment credit pursuant to paragraph (b) of this section, and for other source milk for which a location adjustment credit is applicable, the price computed pursuant to § 1099.51(a) shall be reduced by 7.5 cents, plus 1.5 cents for each 10 miles or fraction thereof that such distance exceeds 50 miles;

(b) For purposes of calculating such adjustment, transfers between pool plants shall be assigned Class I disposition at the transferee plant, in excess of the sum of 95 percent of the receipts at such plant from producers and cooperative associations pursuant to § 1099.10(e), and the volume assigned as Class I to receipts from other order plants (and unregulated supply plants) such assignment to be made first to transferor plants at which no location adjustment credit is applicable and then in sequence beginning with the plant at which the least location adjustment would apply.

12. Section 1099.62 is revised to read as follows:

§ 1099.62 Obligations of handler operating a partially regulated distributing plant.

Each handler who operates a partially regulated distributing plant shall pay to the market administrator for the producer-settlement fund on or before the 25th day after the end of the month either of the amounts (at the handler's election) calculated pursuant to paragraph (a) or (b) of this section. If the handler fails to report pursuant to §§ 1099.30 and 1099.31 the information necessary to compute the amount specified in paragraph (a) of this section, he shall pay the amount computed pursuant to paragraph (b) of this section:

(a) An amount computed as follows:

(1)(i) The obligation that would have been computed pursuant to § 1099.70 at such plant shall be determined as though such plant were a pool plant. For purposes of such computation, receipts at such nonpool plant from a pool plant or an other order plant shall be assigned to the utilization at which classified at the pool plant or other order plant and transfers from such nonpool plant to a pool

plant or an other order plant shall be classified as Class II milk if allocated to such class at the pool plant or other order plant and be valued at the weighted average price of the respective order if so allocated to Class I milk. There shall be included in the obligation so computed a charge in the amount specified in § 1099.70(e) and a credit in the amount specified in § 1099.82(b)(2) with respect to receipts from an unregulated supply plant, unless an obligation with respect to such plant is computed as specified below in this subparagraph.

(ii) If the operator of the partially regulated distributing plant so requests, and provides with his reports pursuant to §§ 1099.30 and 1099.31 similar reports with respect to the operations of any other nonpool plant which serves as a supply plant for such partially regulated distributing plant by shipments to such plant during the month equivalent to the requirements of § 1099.8(b), with agreement of the operator of such plant that the market administrator may examine the books and records of such plant for purposes of verification of such reports, there will be added the amount of the obligation computed at such nonpool supply plant in the same manner and subject to the same conditions as for the partially regulated distributing plant.

(2) From this obligation there will be deducted the sum of (i) the gross payments made by such handler for Grade A milk received during the month from dairy farmers at such plant and like payments made by the operator of a supply plant(s) included in the computations pursuant to subparagraph (1) of this paragraph, and (ii) any payments to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant.

(b) An amount computed as follows:

(1) Determine the respective amounts of skim milk and butterfat disposed of as Class I milk on routes in the marketing area;

(2) Deduct the respective amounts of skim milk and butterfat received as Class I milk at the partially regulated distributing plant from pool plants and other order plants, except that deducted under a similar provision of another order issued pursuant to the Act;

(3) Combine the amounts of skim milk and butterfat remaining into one total and determine the weighted average butterfat content; and

(4) From the value of such milk at the Class I price applicable at the location of the nonpool plant, subtract its value at the applicable uniform price or the Class II price, whichever is the higher.

13. Section 1099.70 is revised to read as follows:

§ 1099.70 Computation of the net pool obligation of each pool handler.

The net pool obligation of each pool handler during each month shall be a sum of money computed by the market administrator as follows:

(a) Multiply the quantity of producer milk in each class, as computed pursuant to § 1099.46, by the applicable class prices (adjusted pursuant to §§ 1099.52 and 1099.53);

(b) Add the amount obtained from multiplying the difference between the Class II price for the preceding month and the Class I price for the current month by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1099.45(a)(5) and the corresponding step of § 1099.45(b);

(c) Add the amount obtained from multiplying the pounds of overage deducted from each class pursuant to § 1099.45(a)(10) and the corresponding step of § 1099.45(b) by the applicable class prices;

(d) Add an amount equal to the difference between the value at the Class I price applicable at the pool plant and the value at the Class II price with respect to the skim milk and butterfat in other source milk subtracted from Class I pursuant to § 1099.45(a)(3) and the corresponding step of § 1099.45(b);

(e) Add an amount equal to the value at the Class I price adjusted for location of the nearest nonpool plant(s) from which an equivalent volume of skim milk and butterfat was received from an unregulated supply plant which volume of skim milk and butterfat is subtracted from Class I pursuant to § 1099.45(a)(7) and the corresponding step of § 1099.45(b). With respect to skim milk and butterfat which is received from dairy farmers who are not producers and which is subtracted from Class I pursuant to § 1099.45(a)(7) and the corresponding step of § 1099.45(b), add an amount equal to its value at the Class I price applicable at the pool plant.

14. Section 1099.71 is revised to read as follows:

§ 1099.71 Computation of uniform prices.

For each month the market administrator shall compute the uniform price per hundredweight of milk received from producers as follows:

(a) Combine into one total the values computed pursuant to § 1099.70 for all handlers who filed the reports prescribed by § 1099.30 for the month and who made the payments pursuant to §§ 1099.80 and 1099.82 for the preceding month;

(b) Add an amount equal to the total value of the location differentials computed pursuant to § 1099.86;

(c) Subtract, if the average butterfat content of the milk specified in paragraph (e) of this section is more than 3.5 percent, or add, if such butterfat content is less than 3.5 percent, an amount computed by multiplying the amount by which the average butterfat content of such milk varies from 3.5 percent by the butterfat differential computed pursuant to § 1099.85 and multiplying the result by the total hundredweight of such milk;

(d) Add an amount equal to one-half of the unobligated balance in the producer-settlement fund;

(e) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1099.70(e);

(f) Subtract not less than four cents nor more than five cents per hundredweight. The result shall be the "uniform price" for milk received from producers.

15. Section 1099.82 is revised to read as follows:

§ 1099.82 Payments to the producer-settlement fund.

On or before the 12th day after the end of the month each handler shall pay to the market administrator the amount, if any, by which the total amount specified in paragraph (a) of this section exceeds the amounts specified in paragraph (b) of this section:

(a) The sum of the net pool obligation computed pursuant to § 1099.70 for such handler;

(b) The sum of

(1) The value of such handler's producer milk at the applicable uniform prices specified in § 1099.80; and

(2) The value at the uniform price(s) adjusted where applicable for the location of the plant(s), from which received (not to be less than the value at the Class II price) with respect to other source milk for which a value is computed pursuant to § 1099.70(e).

16. Section 1099.83 is revised to read as follows:

§ 1099.83 Payments out of the producer-settlement fund.

On or before the 13th day after the end of each month the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1099.82(b) exceeds the amount computed pursuant to § 1099.82(a). If at such time the balance in the producer-settlement fund is insufficient to make all payments pursuant to this section, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the appropriate funds are available.

17. Section 1099.86 is revised to read as follows:

§ 1099.86 Location differentials to producers and on nonpool milk.

(a) The uniform price for producer milk received at a pool plant shall be reduced according to the location of the pool plant, and the uniform price for producer milk diverted to a nonpool plant shall be reduced according to the location of the pool plant from which it is diverted at the rates set forth in § 1099.53; and

(b) For purposes of computations pursuant to §§ 1099.82 and 1099.83 the uniform price shall be adjusted at the rates set forth in § 1099.53 applicable at the location of the nonpool plant from which the milk was received.

18. Section 1099.88 is revised to read as follows:

§ 1099.88 Expense of administration.

As his pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 15th day after

the end of the month five cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect to (a) producer milk (including such handler's own production), (b) other source milk allocated to Class I pursuant to § 1099.45(a) (3) and (7) and the corresponding steps of § 1099.45(b), and (c) packaged Class I milk disposed of from a partially regulated distributing plant on routes in the marketing area that exceeds Class I milk received during the month at such plant from pool plants and other order plants.

PART 1102—MILK IN FORT SMITH, ARK., MARKETING AREA

1. Section 1102.7 is revised to read as follows:

§ 1102.7 Approved plant.

"Approved plant" means any milk plant, except the plant of a producer-handler or a plant exempt pursuant to § 1102.61, approved by any health authority having jurisdiction in the marketing area from which fluid milk products are disposed of for fluid consumption in the marketing area on wholesale or retail routes (including plant stores).

2. Section 1102.8 is revised to read as follows:

§ 1102.8 Unapproved plant.

"Unapproved plant" means any milk receiving, manufacturing or processing plant other than an approved plant. The following categories of unapproved plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Unregulated supply plant" means an unapproved plant which is not an other order plant nor a producer-handler plant and from which fluid milk products eligible for distribution in the marketing area for fluid consumption are moved during the month to an approved plant.

3. In § 1102.9 paragraph (a) is revised to read as follows:

§ 1102.9 Handler.

* * * * *

(a) Any person in his capacity as the operator of a milk plant approved by any health authority having jurisdiction in the marketing area from which fluid milk products are disposed of for fluid consumption in the marketing area on wholesale or retail routes (including plant stores);

4. In § 1102.10, the text preceding the proviso is revised to read as follows:

§ 1102.10 Producer.

"Producer" means any person, other than a producer-handler as defined in any order (including this part) issued pursuant to the Act, who produces milk which is received at an approved plant:

5. Section 1102.11 is revised to read as follows:

§ 1102.11 Producer milk.

"Producer milk" means all skim milk and butterfat in milk produced by a producer which is received by a handler directly from producers.

6. Section 1102.12 is revised to read as follows:

§ 1102.12 Other source milk.

"Other source milk" means all skim milk and butterfat other than that contained in producer milk or received from other approved plants.

7. Section 1102.13 is revised to read as follows:

§ 1102.13 Producer-handler.

"Producer-handler" means any person who (a) produces milk, and (b) operates a milk plant approved by any health authority having jurisdiction in the marketing area from which fluid milk products for fluid consumption are disposed of in the marketing area on wholesale or retail routes (including plant stores), and (c) receives no milk from producers.

8. Section 1102.16 is added to read as follows:

§ 1102.16 Fluid milk product.

"Fluid milk product" means the fluid form of milk, skim milk, buttermilk, flavored milk, flavored milk drinks, cream, cultured sour cream and any mixture of cream and milk or skim milk (except bulk ice cream mix).

9. In § 1102.22, paragraphs (m) and (n) are added as follows:

§ 1102.22 Duties.

* * * * *

(m) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products from an other order plant, the classification to which such receipts

are allocated pursuant to § 1102.46 pursuant to such report, and thereafter any change in such allocation required to correct errors disclosed in verification of such report; and

(n) Furnish to each handler operating an approved plant who has shipped fluid milk products to an other order plant, the classification to which the skim milk and butterfat in such fluid milk products were allocated by the market administrator of the other order on the basis of the report of the receiving handler; and, as necessary, any changes in such classification arising in the verification of such report.

10. In § 1102.41, paragraph (a) and subparagraphs (3) and (4) of paragraph (b) are revised to read as follows:

§ 1102.41 Classes of utilization.

* * * * *

(a) Class I milk shall be all skim milk (including reconstituted skim milk) and butterfat disposed of in the form of a fluid milk product, and all skim milk and butterfat not specifically accounted for under paragraph (b) of this section.

(b) * * *

(3) In shrinkage of skim milk and butterfat, respectively, assigned pursuant to § 1102.42(b)(1), but not to exceed the following: Two percent of milk received directly from producers; plus two percent of milk received in bulk tank lots from approved plants of other handlers; plus two percent of receipts of fluid milk products in bulk from an other order plant, exclusive of the quantity for which Class II utilization was requested by the operator of such plant and the handler; and plus two percent of receipts of fluid milk products in bulk from unregulated supply plants, exclusive of the quantity for which Class II utilization was requested by the handler;

(4) In shrinkage of skim milk and butterfat, respectively, assigned pursuant to § 1102.42(b)(2), and

11. In § 1102.42, paragraph (b) is revised to read as follows:

§ 1102.42 Shrinkage.

* * * * *

(b) If a handler has receipts of other source milk, shrinkage shall be prorated between: (1) Skim milk and butterfat in milk from producers; in bulk tank lots from approved plants of other handlers; in bulk from an other order plant, exclusive of the quantity for which Class II utilization was requested by the operator of such plant and the handler; and in bulk from unregulated supply plants, exclusive of the quantity for which Class II utilization was requested by the handler; and (2) skim milk and butterfat in other source milk exclusive of that specified in § 1102.41(b)(3).

12. Section 1102.44 is revised to read as follows:

§ 1102.44 Transfers.

Skim milk or butterfat in the form of a fluid milk product shall be classified:

(a) At the utilization mutually indicated in writing to the market administrator by both handlers on or before the 7th day after the end of the month within which such transaction occurred; otherwise as Class I milk, if transferred or diverted from an approved plant to the approved plant of another handler subject to the following conditions:

(1) The skim milk or butterfat so assigned to either class shall be limited to the amount thereof remaining in such class in the transferee plant after computations pursuant to § 1102.46(a)(6) and the corresponding step of § 1102.46(b);

(2) If the transferor plant received during the month other source milk to be allocated pursuant to § 1102.46(a)(3), and the corresponding step of § 1102.46(b), the skim milk and butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor handler received during the month other source milk to be allocated pursuant to § 1102.46(a)(6) and the corresponding step of § 1102.46(b), the skim milk and butterfat so transferred up to the total of such receipts shall not be classified as Class I milk to a greater extent than would be applicable to a like quantity of such other source milk received at the transferee plant;

(b) As Class I milk, if transferred or diverted from an approved plant to a producer-handler;

(c) As Class I milk, if transferred or diverted to an unapproved plant that is neither an other order plant nor a producer-handler plant, located more than 185 miles by the shortest highway distance as determined by the market administrator from the approved plant from which transferred or diverted, except that cream so transferred without Grade A certification may be classified as Class II; and

(d) As Class I milk, if transferred or diverted in bulk to an unapproved plant that is neither an other order plant nor a producer-handler plant, located not more than 185 miles by the shortest highway distance as determined by the market administrator from the approved plant from which transferred or diverted, unless the requirements of subparagraphs (1) and (2) of this paragraph are met, in which case the skim milk and butterfat so transferred or diverted shall be classified in accordance with the assignment resulting from subparagraph (3) of this paragraph;

(1) The transferring or diverting handler claims classification pursuant to the assignment set forth in subparagraph (3) of this paragraph in his report submitted to the market administrator pursuant to § 1102.30 for the month within which such transaction occurred;

(2) The operator of such unapproved plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for the purpose of verification; and

(3) The skim milk and butterfat so transferred shall be classified on the basis of the following assignment of utilization at such unapproved plant in excess of receipts of packaged fluid milk products from all approved plants and other order plants:

(i) Any Class I utilization disposed of on routes in the marketing area of another order issued pursuant to the Act shall be first assigned to receipts from plants fully regulated by such order, next pro rata to receipts from other order plants not regulated by such order, and thereafter to receipts from dairy farmers who the market administrator determines constitute regular sources of supply for such unapproved plant;

(ii) Class I utilization in excess of that assigned pursuant to subdivision (i) of this subparagraph shall be assigned first to remaining receipts from dairy farmers who the market administrator determines constitute the regular source of supply for such unapproved plant and Class I utilization in excess of such receipts shall be assigned pro rata to unassigned receipts at such unapproved plant from all approved and other order plants; and

(iii) To the extent that Class I utilization is not so assigned to it, the skim milk and butterfat so transferred shall be classified as Class II milk;

(e) As follows, if transferred to an other order plant in excess of receipts from such plant in the same category as described in subparagraph (1), (2) or (3) of this paragraph:

(1) If transferred in packaged form, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated as a fluid milk product under the other order (including allocation under the conditions set forth in subparagraph (3) of this paragraph);

(3) If the operators of both the transferor and transferee plants so request in the reports of receipts and utilization filed with their respective market administrators, transfers in bulk form shall be classified as Class II to the extent of the Class II utilization (or comparable utilization under such other order) available for such assignment pursuant to the allocation provisions of the transferee order;

(4) If information concerning the classification to which allocated under the other order is not available to the market administrator for purposes of establishing classification pursuant to this paragraph, classification shall be as Class I, subject to adjustment when such information is available;

(5) For purposes of this paragraph, if the transferee order provides for more than two classes of utilization, milk allocated to a class consisting primarily of fluid milk products shall be classified as Class I, and milk allocated to other classes shall be classified as Class II; and

(6) If the form in which any fluid milk product is transferred to an other order plant is not defined as a fluid milk product under such other order, classification shall be in accordance with the provisions of § 1102.41.

13. Section 1102.46 is revised to read as follows:

§ 1102.46 Allocation of skim milk and butterfat classified.

After making the computations pursuant to § 1102.45, the market administrator shall determine the classification of producer milk for each handler as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class II the pounds of skim milk classified as Class II pursuant to § 1102.41(b)(3);

(2) Subtract from the remaining pounds of skim milk in each class the pounds of skim milk in fluid milk products received in packaged form from other order plants as follows:

(i) From Class II milk, the lesser of the pounds remaining or two percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(3) Subtract in the order specified below the pounds of skim milk remaining in each class, in series beginning with Class II, the pounds of skim milk in each of the following:

(i) Other source milk in a form other than that of a fluid milk product;

(ii) Receipts of fluid milk products for which Grade A certification is not established, or which are from unidentified sources; and

(iii) Receipts of fluid milk products from a producer-handler, as defined under this or any other Federal order;

(4) Subtract in the order specified below, from the pounds of skim milk remaining in Class II but not in excess of such quantity the pounds of skim milk in each of the following:

(i) Receipts of fluid milk products from an unregulated supply plant:

(*a*) For which the handler requests Class II utilization; or

(*b*) Which are in excess of the pounds of skim milk determined by multiplying the pounds of skim milk remaining in Class I milk by 1.25 and subtracting the sum of the pounds of skim milk in producer milk, receipts from approved plants of other handlers, and receipts in bulk from other order plants;

(ii) Receipts of fluid milk products in bulk from an other order plant in excess of similar transfers to such plant, if Class II utilization was requested by the operator of such plant and the handler;

(5) Add to the remaining pounds of skim milk in Class II milk the pounds subtracted pursuant to subparagraph (1) of this paragraph;

(6) Subtract from the pounds of skim milk remaining in each class, pro rata to such quantities, the pounds of skim milk in each of the following:

(i) Receipts of fluid milk products from unregulated supply plants that were not subtracted pursuant to subparagraph (4)(i) of this paragraph;

(ii) Receipts of fluid milk products in bulk from other order plants that were not subtracted pursuant to subparagraph (4)(ii) of this paragraph;

(7) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk received in fluid milk products from approved plants of other handlers according to the classification assigned pursuant to § 1102.44(a);

(8) If the pounds of skim milk remaining in both classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class II. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) Combine the amounts of skim milk and butterfat determined pursuant to paragraphs (a) and (b) of this section into one total for each class and determine the weighted average butterfat content of producer milk in each class.

14. Section 1102.84 is revised to read as follows:

§ 1102.84 Expense of administration.

As his pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 15th day after the end of the month four cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect to (a) producer milk (including such handler's own production), and (b) other source milk allocated to Class I pursuant to § 1102.46(a) (3) and (6)(i) and the corresponding steps of § 1102.46 (b).

PART 1108—MILK IN CENTRAL ARKANSAS MARKETING AREA

1. Section 1108.6 is revised to read as follows:

§ 1108.6 Producer.

"Producer" means any person, other than a producer-handler as defined in any order (including this part) issued pursuant to the Act, who produces milk in compliance with Grade A inspection requirements of a duly constituted health authority which milk is received during the month at a pool plant: *Provided*, That if such milk is diverted from a pool plant by a handler to a nonpool plant for his account any day during the months of February through August, or on not more than 10 days during any other month, the milk so diverted shall be deemed to have been received at a pool plant at the location of the plant from which diverted.

2. Section 1108.11 is revised to read as follows:

§ 1108.11 Nonpool plant.

"Nonpool plant" means any milk receiving, manufacturing or processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means an approved plant that is neither an other order plant nor a producer-handler plant, from which fluid milk products labeled Grade A in consumer-type packages or dispenser units are distributed on routes in the marketing area during the month.

(d) "Unregulated supply plant" means a nonpool plant from which fluid milk products eligible for distribution in the marketing area under a Grade A label are shipped during the month to a pool plant qualified pursuant to § 1108.10 and which is not an other order plant nor a producer-handler plant.

3. In § 1108.27, additional paragraphs (l), (m), and (n) are added and read as follows:

§ 1108.27 Duties.

* * * * *

(l) Whenever required for purpose of allocating receipts from other order plants pursuant to § 1108.46(a)(8) and the corresponding step of § 1108.46(b), the market administrator shall estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose;

(m) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products from an other order plant, the classification to which such receipts are allocated pursuant to § 1108.46 pursuant to such report, and thereafter any change in such allocation required to correct errors disclosed in verification of such report; and

(n) Furnish to each handler operating a pool plant who has shipped fluid milk products to an other order plant, the classification to which the skim milk and butterfat in such fluid milk products were allocated by the market administrator of the other order on the basis of the report of the receiving handler; and, as necessary, any changes in such classification arising in the verification of such report.

4. In § 1108.30, paragraph (c) is added to read as follows:

§ 1108.30 Reports of receipts and utilization.

* * * * *

(c) Each handler who operates a partially regulated distributing plant shall report as required in this section, except that receipts in Grade A milk shall be reported in lieu of those in producer milk; such report shall include a separate statement showing the respective amounts of skim milk and butterfat disposed of in the marketing area as Class I milk on routes.

5. In § 1108.31, paragraph (a) and the introductory text of paragraph (b) are revised, and paragraph (c) is added to read as follows:

§ 1108.31 Other reports.

(a) Each producer-handler and each handler making payments pursuant to § 1108.62(b) shall make reports to the market administrator at such time and in such manner as the market administrator may prescribe.

(b) Each handler, except a producer-handler and a handler making payments pursuant to § 1108.62(b), shall report to the market administrator in the detail and on forms prescribed by the market administrator:

* * * * *

(c) Each handler who operates a partially regulated distributing plant shall report as required pursuant to paragraph (b) of this section, except that quantities of base milk and excess milk need not be reported. In such report payments to dairy farmers delivering Grade A milk shall be reported in lieu of payments to producers.

6. Section 1108.41(b)(5) is revised to read as follows:

§ 1108.41 Classes of utilization.

* * * * *

(b) * * *

(5) In shrinkage of skim milk and butterfat, respectively, allocated pursuant to § 1108.42(b)(1) but not in excess of:

(i) Two percent of milk received at a pool plant directly from producers except milk diverted pursuant to § 1108.6; plus

(ii) Two percent of milk received from a cooperative association handler pursuant to § 1108.12(c), if the handler operating the pool plant files with the market administrator in writing, prior to the first day of the month, notice that he is purchasing such milk for the month on the basis of average farm tests and farm weights determined by farm bulk tank calibrations; plus

(iii) One and one-half percent of milk received in bulk from pool plants of other handlers or received from cooperative associations pursuant to § 1108.12(c) unless two percent shrinkage is assigned pursuant to subdivision (ii) of this subparagraph; plus

(iv) One and one-half percent of receipts of fluid milk products in bulk from an other order plant exclusive of the quantity for which Class II utilization was requested by the operator of such plant and the handler; plus

(v) One and one-half percent of receipts of fluid milk products in bulk from unregulated supply plants, exclusive of the quantity for which Class II utilization was requested by the handler; less

(vi) One and one-half percent of milk disposed of in bulk to other plants; and less

(vii) One and one-half percent of milk disposed of to plants by a cooperative association handler pursuant to § 1108.12(c) unless two percent shrinkage is assigned pursuant to subdivision (ii) of this subparagraph;

* * * * *

7. In § 1108.42(b), subparagraph (2) is revised to read as follows:

§ 1108.42 Shrinkage.

* * * * *

(b) * * *

(2) The pounds of skim milk and butterfat in other source milk received in the form of bulk fluid milk products, exclusive of that specified in § 1108.41(b)(5).

8. Section 1108.44 is revised to read as follows:

§ 1108.44 Transfers.

Skim milk or butterfat in the form of a fluid milk product shall be classified:

(a) At the utilization indicated by the operators of both plants, or by the handler pursuant to § 1108.12(c) and the plant operator, otherwise as Class I milk, if transferred from a pool plant to the pool plant of another handler, or if received at a pool plant from a handler pursuant to § 1108.12(c), except as provided in paragraph (f) of this section, subject in either event to the following conditions:

(1) The skim milk or butterfat so assigned to either class shall be limited to the amount thereof remaining in such class in the transferee plant after computations pursuant to § 1108.46(a)(8) and the corresponding step of § 1108.46(b);

(2) If the transferor plant received during the month other source milk to be allocated pursuant to § 1108.46(a)(3) and the corresponding step of § 1108.46(b), the skim milk and butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor handler received during the month other source milk to be allocated pursuant to § 1108.46(a)(7) or (8) and the corresponding steps of § 1108.46(b), the skim milk and butterfat so transferred up to the total of such receipts shall not be classified as Class I milk to a greater extent than would be applicable to a like quantity of such other source milk received at the transferee plant;

(b) As Class I milk, if transferred from a pool plant to a producer-handler;

(c) As Class I milk, if transferred or diverted in the form of milk or skim milk to a nonpool plant that is neither an other order plant nor a producer-handler plant, located more than 250 miles by the shortest hard-surfaced highway distance as determined by the market administrator, from the plant from which transferred or diverted;

(d) Skim milk and butterfat transferred in bulk form as cream to a nonpool plant that is neither an other order plant nor a producer-handler plant shall be classified Class I milk unless, (1) the transferring handler claims classification in Class II milk in his report submitted to the market administrator pursuant to § 1108.30, (2) the operator of the nonpool plant maintains books and records showing the utilization of all skim milk and butterfat at such plant which are made available if requested by the market administrator for the purpose of verification, and (3) such cream is not disposed of by the transferee plant under Grade A label.

(e) As Class I milk, if transferred or diverted in the form of bulk milk or skim milk to a nonpool plant that is neither an other order plant nor a producer-handler plant, located not more than 250 miles, by the shortest highway distance as determined by the market administrator, from the plant from which transferred or diverted, unless the requirements of subparagraphs (1) and (2) of this paragraph are met, in which case the skim milk and butterfat so transferred or diverted shall be classified in accordance with the assignment resulting from subparagraph (3) of this paragraph:

(1) The transferring or diverting handler claims classification pursuant to the assignment set forth in subparagraph (3) of this paragraph in his report submitted to the market administrator pursuant to § 1108.30 for the month within which such transaction occurred;

(2) The operator of such nonpool plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for the purpose of verification; and

(3) The skim milk and butterfat so transferred shall be classified on the basis of the following assignment of utilization at such nonpool plant in excess of receipts of packaged fluid milk products from all pool plants and other order plants:

(i) Any Class I utilization disposed of on routes in the marketing area shall be first assigned to the skim milk and butterfat in the fluid milk products so transferred or diverted from pool plants, next pro rata to receipts from other order plants and thereafter to receipts from dairy farmers who the market administrator determines constitute regular sources of supply of Grade A milk for such nonpool plant;

(ii) Any Class I utilization disposed of on routes in the marketing area of another order issued pursuant to the Act shall be first assigned to receipts from plants fully regulated by such order, next pro rata to receipts from pool plants and other order plants not regulated by such order, and thereafter to receipts from dairy farmers who the market administrator determines constitute regular sources of supply for such nonpool plant;

(iii) Class I utilization in excess of that assigned pursuant to subdivisions (i) and (ii) of this subparagraph shall be assigned first to remaining receipts from dairy farmers who the market administrator determines constitute the regular source of supply for such nonpool plant and Class I utilization in excess of such receipts shall be assigned pro rata to unassigned receipts at such nonpool plant from all pool and other order plants; and

(iv) To the extent that Class I utilization is not so assigned to it, the skim milk and butterfat so transferred shall be classified as Class II milk;

(f) If a specified utilization is not claimed by both handlers, subject to paragraph (a) of this section, skim milk and butterfat transferred to the pool plant of

another handler by a cooperative association which is a handler pursuant to § 1108.12(c) shall be classified pro rata to the respective amounts remaining in each class for such month at the pool plant of the receiving handler after the computations pursuant to § 1108.46(a)(9) and the corresponding step of § 1108.46(b); and

(g) As follows, if transferred to an other order plant in excess of receipts from such plant in the same category as described in subparagraph (1), (2) or (3) of this paragraph:

(1) If transferred in packaged form, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated as a fluid milk product under the other order (including allocation under the conditions set forth in subparagraph (3) of this paragraph);

(3) If the operators of both the transferor and transferee plants so request in the reports of receipts and utilization filed with their respective market administrators, transfers in bulk form shall be classified as Class II to the extent of the Class II utilization (or comparable utilization under such other order) available for such assignment pursuant to the allocation provisions of the transferee order;

(4) If information concerning the classification to which allocated under the other order is not available to the market administrator for purposes of establishing classification pursuant to this paragraph, classification shall be as Class I, subject to adjustment when such information is available;

(5) For purposes of this paragraph, if the transferee order provides for more than two classes of utilization, milk allocated to a class consisting primarily of fluid milk products shall be classified as Class I, and milk allocated to other classes shall be classified as Class II; and

(6) If the form in which any fluid milk product is transferred to an other order plant is not defined as a fluid milk product under such other order, classification shall be in accordance with the provisions of § 1108.41.

9. Section 1108.46 is revised to read as follows:

§ 1108.46 Allocation of skim milk and butterfat classified.

After making the computations pursuant to § 1108.45, the market administrator shall determine the classification of producer milk for each handler as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class II the pounds of skim milk classified as Class II pursuant to § 1108.41(b)(5);

(2) Subtract from the remaining pounds of skim milk in each class the pounds of skim milk in fluid milk products received in packaged form from other order plants as follows:

(i) From Class II milk, the lesser of the pounds remaining or two percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(3) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class II, the pounds of skim milk in each of the following:

(i) Other source milk in a form other than that of a fluid milk product;

(ii) Receipts of fluid milk products for which Grade A certification is not established, or which are from unidentified sources; and

(iii) Receipts of fluid milk products from a producer-handler, as defined under this or any other Federal order;

(4) Subtract, in the order specified below, from the pounds of skim milk remaining in Class II, but not in excess of such quantity, the pounds of skim milk in each of the following:

(i) Receipts of fluid milk products from an unregulated supply plant:

(*a*) For which the handler requests Class II utilization; or

(*b*) Which are in excess of the pounds of skim milk determined by multiplying the pounds of skim milk remaining in Class I milk by 1.25 and subtracting the sum of the pounds of skim milk in producer milk, receipts from other pool plants, from cooperative associations as handlers pursuant to § 1108.12(c), and receipts in bulk from other order plants;

(ii) Receipts of fluid milk products in bulk from an other order plant in excess of similar transfers to such plant, if Class II utilization was requested by the operator of such plant and the handler;

(5) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class II, the pounds of skim milk in inventory of fluid milk products on hand at the beginning of the month;

(6) Add to the remaining pounds of skim milk in Class II milk the pounds subtracted pursuant to subparagraph (1) of this paragraph;

(7) Subtract from the pounds of skim milk remaining in each class, pro rata to such quantities, the pounds of skim milk in receipts of fluid milk products from unregulated supply plants which were not subtracted pursuant to subparagraph (4)(i) of this paragraph;

(8) Subtract from the pounds of skim milk remaining in each class, in the following order, the pounds of skim milk in receipts of fluid milk products in bulk from an other order plant(s), in excess in each case of similar transfers to the same plant, which were not subtracted pursuant to subparagraph (4)(ii) of this paragraph:

(i) In series beginning with Class II, the pounds determined by multiplying the pounds of such receipts by the larger of the percentage of estimated Class II utilization of skim milk announced for the month by the market administrator pursuant to § 1108.27(1) or the percentage that Class II utilization remaining is of the total remaining utilization of skim milk of the handler; and

(ii) From Class I, the remaining pounds of such receipts;

(9) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk received in fluid milk products from other handlers according to the classification assigned pursuant to § 1108.44(a);

(10) Subtract, pro rata from the pounds of skim milk remaining in each class, the pounds of skim milk to be classified pursuant to § 1108.44(f); and

(11) If the pounds of skim milk remaining in both classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class II. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) Combine the amounts of skim milk and butterfat determined pursuant to paragraphs (a) and (b) of this section into one total for each class and determine the weighted average butterfat content of producer milk in each class.

10. Section 1108.53 is revised to read as follows:

§ 1108.53 Location adjustments to handlers.

(a) For milk received from producers at a pool plant located more than 60 miles by shortest highway distance as measured by the market administrator, from the nearer of the County Courthouse in Arkadelphia, Arkansas, or the State Capitol in Little Rock, Arkansas, which is classified as Class I milk or assigned Class I location adjustment credit pursuant to paragraph (b) of this section and for other source milk to which a location adjustment is applicable, the price computed pursuant to § 1108.51(a) shall be reduced at the rate of 1.5 cents for each 10 miles or fraction thereof that such plant is from the respective buildings designated above; and

(b) For purposes of calculating such adjustment, transfers of fluid milk products between pool plants shall be assigned Class I disposition at the transferee plant, in excess of the sum of receipts at such plant from producers and cooperative associations pursuant to § 1108.12(c), and the pounds assigned as Class I to receipts from other order plants and unregulated supply plants. Such assignment is to be made first to transferor plants at which no location adjustment credit is applicable and then in sequence beginning with the plant at which the least location adjustment would apply.

§ 1108.54 [Revocation]

11. Section 1108.54 is revoked.

12. Section 1108.62 is revised to read as follows:

§ 1108.62 Obligations of handler operating a partially regulated distributing plant.

Each handler who operates a partially regulated distributing plant shall pay to the market administrator for the producer-settlement fund on or before the 25th day after the end of the month either of the amounts (at the handler's

election) calculated pursuant to paragraph (a) or (b) of this section. If the handler fails to report pursuant to §§ 1108.30(c) and 1108.31(c) the information necessary to compute the amount specified in paragraph (a) of this section, he shall pay the amount computed pursuant to paragraph (b) of this section:

(a) An amount computed as follows:

(1) (i) The obligation that would have been computed pursuant to § 1108.70 at such plant shall be determined as though such plant were a pool plant. For purposes of such computation, receipts at such nonpool plant from a pool plant or an other order plant shall be assigned to the utilization at which classified at the pool plant or other order plant and transfers from such nonpool plant to a pool plant or an other order plant shall be classified as Class II milk if allocated to such class at the pool plant or other order plant and be valued at the weighted average price of the respective order if so allocated to Class I milk. There shall be included in the obligation so computed a charge in the amount specified in § 1108.70(e) and a credit in the amount specified in § 1108.82(b)(2) with respect to receipts from an unregulated supply plant, unless an obligation with respect to such plant is computed as specified below in this subparagraph.

(ii) If the operator of the partially regulated distributing plant so requests, and provides with his reports pursuant to §§ 1108.30(c) and 1108.31(c) similar reports with respect to the operations of any other nonpool plant which serves as a supply plant for such partially regulated distributing plant by shipments to such plant during the month equivalent to the requirements of § 1108.9, with agreement of the operator of such plant that the market administrator may examine the books and records of such plant for purposes of verification of such reports, there will be added the amount of the obligation computed at such nonpool supply plant in the same manner and subject to the same conditions as for the partially regulated distributing plant.

(2) From this obligation there will be deducted the sum of (i) the gross payments made by such handler for Grade A milk received during the month from dairy farmers at such plant and like payments made by the operator of a supply plant(s) included in the computations pursuant to subparagraph (1) of this paragraph, and (ii) any payments to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant.

(b) An amount computed as follows:

(1) Determine the respective amounts of skim milk and butterfat disposed of as Class I milk on routes in the marketing area;

(2) Deduct the respective amounts of skim milk and butterfat received as Class I milk at the partially regulated distributing plant from pool plants and other order plants, except that deducted under a similar provision of another order issued pursuant to the Act;

(3) Combine the amounts of skim milk and butterfat remaining into one total and determine the weighted average butterfat content; and

(4) From the value of such milk at the Class I price applicable at the location of the nonpool plant, subtract its value at the weighted average price applicable at such location (not to be less than the Class II price).

13. Section 1108.70 is revised to read as follows:

§ 1108.70 Computation of the net pool obligation of each pool handler.

The net pool obligation of each pool handler during each month shall be a sum of money computed by the market administrator as follows:

(a) Multiply the quantity of producer milk in each class, as computed pursuant to § 1108.46(c), by the applicable class prices (adjusted pursuant to §§ 1108.52 and 1108.53);

(b) Add the amount obtained from multiplying the pounds of overage deducted from each class pursuant to § 1108.46(a)(11) and the corresponding step of § 1108.46(b) by the applicable class prices;

(c) Add the amount obtained by multiplying the difference between the Class II price for the preceding month and the Class I price for the current month by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1108.46(a)(5) and the corresponding step of § 1108.46(b);

(d) Add an amount equal to the difference between the value at the Class I price applicable at the pool plant and the value at the Class II price, with respect to skim milk and butterfat in other source milk subtracted from Class I pursuant to § 1108.46(a)(3) and the corresponding step of § 1108.46(b);

(e) Add an amount equal to the value at the Class I price, adjusted for location of the nearest nonpool plant(s) from which an equivalent weight was received, with respect to skim milk and butterfat subtracted from Class I pursuant to § 1108.46(a)(7) and the corresponding step of § 1108.46(b).

14. Section 1108.71 is revised to read as follows:

§ 1108.71 Computation of the uniform price.

For each month the market administrator shall compute the uniform price (or weighted average price) per hundredweight of milk received from producers as follows:

(a) Combine into one total the values computed pursuant to § 1108.70 for all handlers who filed the reports prescribed by § 1108.30 for the month and who made the payments pursuant to §§ 1108.80 and 1108.82 for the preceding month;

(b) Add an amount equal to the total value of the location differentials computed pursuant to § 1108.74;

(c) Subtract, if the average butterfat content of the milk specified in paragraph (e) of this section is more than 3.5 percent, or add, if such butterfat content is less than 3.5 percent, an amount computed by multiplying the amount by which the average butterfat content of such milk varies from 3.5 percent by the butterfat differential computed pursuant to § 1108.73 and multiplying the result by the total hundredweight of such milk;

(d) Add an amount equal to not less than one-half of the unobligated balance in the producer-settlement fund;

(e) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1108.70(e);

(f) Subtract not less than four cents nor more than five cents per hundredweight. The result shall be the "weighted average price", and, except for the months of February through July 1964 and March through July thereafter, shall be the "uniform price" for milk received from producers.

15. Section 1108.72 is revised to read as follows:

§ 1108.72 Computation of uniform prices for base milk and excess milk.

For each of the months of February through July 1964 and March through July thereafter, the market administrator shall compute the uniform prices per hundredweight for base milk and for excess milk as follows:

(a) Subtract from the amount resulting from the computations made pursuant to § 1108.71(a) through (d) an amount computed by multiplying the hundredweight of milk specified in § 1108.71(e)(2) by the weighted average price;

(b) Compute the aggregate value of excess milk as follows:

(1) Multiply the hundredweight of such milk not in excess of the total quantity of producer milk assigned to Class II milk of handlers included in these computations by the Class II milk price;

(2) Multiply any additional hundredweight of such milk by the Class I price; and

(3) Add together the resulting amounts;

(c) Divide the aggregate value of excess milk obtained in paragraph (b) of this section by the total hundredweight of such milk, adjust to the nearest cent and subtract four cents. The resulting figure shall be the uniform price for excess milk of 3.5 percent butterfat content received from producers;

(d) Subtract an amount determined by multiplying the uniform price obtained in paragraph (c) of this section, plus four cents, times the hundredweight of excess milk from the aggregate value of milk obtained in paragraph (a) of this section;

(e) Divide the result obtained in paragraph (d) of this section by the total hundredweight of base milk of handlers included in these computations; and

(f) Subtract not less than four cents nor more than five cents from the price computed pursuant to paragraph (e) of this section. The resulting figure shall be the uniform price for base milk of 3.5 percent butterfat content f.o.b. market.

16. Section 1108.74 is revised to read as follows:

§ 1108.74 Location differentials to producers and on nonpool milk.

(a) The applicable uniform prices to be paid for producer milk received at a pool plant located 60 miles or more from the County Courthouse in Arkadelphia, Arkansas, or the State Capital in Little Rock, Arkansas, whichever is nearer by the shortest highway distance, as determined by the market administrator, shall be reduced according to the distance of the plant from the respective buildings designated above at the rate of 1.5 cents for each 10 miles or residual fraction thereof; and

(b) For purposes of computations pursuant to §§ 1108.82 and 1108.83 the weighted average price shall be adjusted at the rates set forth in § 1108.53 applicable at the location of the nonpool plant from which the milk was received.

17. Section 1108.82 is revised to read as follows:

§ 1108.82 Payments to the producer-settlement fund.

On or before the 12th day after the end of the month each handler shall pay to the market administrator the amount, if any, by which the total amounts specified in paragraph (a) of this section exceed the amounts specified in paragraph (b) of this section:

(a) The total of the net pool obligation computed pursuant to § 1108.70 for such handler; and

(b) The sum of:

(1) The value of such handler's producer milk at the applicable uniform prices specified in § 1108.80; and

(2) The value at the weighted average price(s) applicable at the location of the plant(s) from which received (not to be less than the value at the Class II price) with respect to other source milk for which a value is computed pursuant to § 1108.70(e).

18. Section 1108.83 is revised to read as follows:

§ 1108.83 Payments out of the producer-settlement fund.

On or before the 13th day after the end of each month the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1108.82(b) exceeds the amount computed pursuant to § 1108.82(a). If at such time the balance in the producer-settlement fund is insufficient to make all payments pursuant to this section, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the appropriate funds are available.

19. Section 1108.86 is revised to read as follows:

§ 1108.86 Expense of administration.

As his pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 15th day after the end of the month four cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect to (a) producer milk received by a cooperative association as a handler pursuant to § 1108.12(c), except that transferred to another handler operating a pool plant, (b) producer milk of a handler operating a pool plant (including such handler's own production), plus milk received from a cooperative association as a handler pursuant to § 1108.12(c), (c) other source milk allocated to Class I pursuant to § 1108.46(a) (3) and (7) and the corresponding steps of § 1108.46(b), and (d) Class I milk disposed of from a partially regulated distributing plant on routes in the marketing area that exceeds Class I milk received during the month at such plant from pool plants and other order plants.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Effective date: August 1, 1964.

Signed at Washington, D.C., on July 22, 1964.

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